

EXHIBIT 10

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CASE NO.: 7:23-cv-00558-PMH

JOSEPH WOLF, CARMEN WOLF,
ON BEHALF OF THEMSELVES AND THOSE
SIMILARLY SITUATED,

Plaintiffs,

v.

DOLLAR GENERAL CORPORATION,
DOLGEN NEW YORK, LLC D/B/A
DOLGEN, DOLGENCORP OF TEXAS, INC.,
INDIVIDUALLY, JOINTLY, SEVERALLY,
OR IN THE ALTERNATIVE,

Defendants.

VIDEOTAPED DEPOSITION OF SUNIL SAJNANI
TAKEN BY REMOTE VIDEOCONFERENCE

TAKEN BY: Plaintiffs Herein
DATE: Friday, April 19, 2024
TIME: 12:01 p.m. CST to 4:29 p.m. CST
PURSUANT TO: Plaintiff's Notice of Deposition
of Sunil Sajnani

REPORTED BY: Laura S. Eder, RMR, FPR
Notary Public
State of Florida at Large

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16
17
18
19 Also Present:

20 Andrew Baker, Videographer

21
22
23
24 * * * ALL ATTENDEES APPEARED REMOTELY * * *

1 Videotaped Deposition of: SUNIL SAJNANI

2 I N D E X Page

3	Examination by Mr. Edwards	5
4	Certificate of Oath of Witness.134
5	Reporter's Deposition Certificate135
6	Read and Sign Letter.136
7	Errata Sheet (to be forwarded upon execution)137

8

9 E X H I B I T S

10	Number	Description	Page
11	Exhibit 1	Plaintiffs' Notice of Deposition . . .	10
12	Exhibit 2	Sajnani report with exhibits	21
13	Exhibit 3	DG spreadsheet DG_WOLF_40562	53
14	Exhibit 4	Definitions for Spreadsheet DG_WOLF_0040563.	56
15			
16	Exhibit 5	Audit Data Rexall DG_WOLF_0004136 to 0004137.	65
17			
18	Exhibit 6	DG website Rexall Bacitracin Ointment.	70
19	Exhibit 7	Tums NY Audit DG_WOLF_0004552 to 0004554.	74
20			
21	Exhibit 8	Walmart Tums Chewy 32-Count.	86
22	Exhibit 9	DG Tums Chewy Bites.	88
23	Exhibit 10	DG website 60-Count Tums Smoothies . .	90
24	Exhibit 11	Audit Report Old El Paso Tortilla. . .	.108
25	Exhibit 12	Skintimate Gel Audit118

P R O C E E D I N G S :

THE VIDEOGRAPHER: Good afternoon. We are going on the record at 12:01 p.m., Friday, April 19th, 2024. This is Media Unit 1 of the video-recorded deposition of Sunil Sajnani, as taken by counsel for plaintiff, in the matter of Joseph Wolf et al. v. Dollar General Corporation et al., filed in the United States District Court of the Southern District of New York, Case No. 7:23-cv-00558-PMH.

My name is Andrew Baker, from the firm Veritext Legal Solutions; I am the videographer. The court reporter is Laura Eder, also from Veritext Legal Solutions.

Will counsel now state their appearance and affiliations for the record, beginning with the noticing attorney.

MR. EDWARDS: Adam Edwards, with the Milberg firm, for the plaintiffs and the proposed class.

MR. MERINO: Javier Merino, of The Dann Law Firm, for the plaintiffs and the proposed class.

MR. TAYLOR: Trent Taylor on behalf of Dolgen New York, LLC d/b/a Dollar General Corporation.

THE COURT REPORTER: Sunil, would you please

1 raise your right hand.

2 THEREUPON,

3 SUNIL SAJNANI

4 was adduced as the witness herein, and being first duly
5 sworn on oath, was questioned and testified as follows:

6 THE WITNESS: I do.

7 THE COURT REPORTER: Thank you.

8 MR. EDWARDS: All right. Anything you want
9 to put on the record, Trent, before we get
10 started?

11 MR. TAYLOR: I do. You know me all too
12 well, Adam.

13 I just wanted to put on the record that the
14 deposition testimony and exhibits here today are
15 governed by the protective order in this case,
16 and we will make the appropriate confidentiality
17 designations, pursuant to that protective order,
18 at the appropriate time.

19 MR. EDWARDS: All right.

20 EXAMINATION

21 BY MR. EDWARDS:

22 Q. I'll ask you to go ahead and state your full
23 name, sir.

24 A. Sunil Sajnani.

25 Q. All right. Mr. Sajnani, you list -- is it

1 accurate to say you've given depositions six times in
2 the past?

3 A. Six times? That's -- a lot of those are
4 expert opinions; some of those are depositions.

5 Q. All right. Let me rephrase the question. How
6 many times have you been deposed prior to today?

7 A. Twice, not including internal corporate
8 matters.

9 Q. Okay. When you -- have you been deposed in
10 internal corporate matters?

11 A. Yes, internally.

12 Q. That would be testimony where you were
13 questioned and gave answers under oath?

14 A. Correct.

15 Q. Okay. That's not something that I'm familiar
16 with. Explain what you mean when you say that you've
17 given depositions in internal corporate matters.

18 A. Yeah. Mostly human resources-type matters
19 where you have some type of dispute, those kinds of
20 things, mainly.

21 Q. Okay. For what companies?

22 A. This was mainly Santander.

23 Q. Say that again.

24 A. Santander. It's a Spanish bank.

25 Q. Okay. Spell that, please.

1 A. S-A-N-T-A-N-D-E-R.

2 Q. I'm going to get back to that, but I'll just
3 continue, then, with my, kind of, introductory things.

4 I'm going to be asking you a number of
5 questions today, and I'm going to try to be as clear as
6 I can with the questions that I ask. Inevitably, I will
7 ask a question which is not phrased well or may come off
8 as confusing. If -- if you don't understand a question
9 that I'm asking, I'll ask you to rephrase it (sic).
10 Okay? You're not going to hurt my feelings.

11 Can we agree to that?

12 A. Yes.

13 Q. All right. If I do ask you a question,
14 though, and you give me a response without asking me to
15 rephrase it, I will assume that you understood.

16 Can we agree to that?

17 A. Yes, we can.

18 Q. Okay. One thing that's important to make a
19 clear record and to help out our court reporter, who has
20 a difficult job, is that we both try to avoid talking
21 over each other. I've been guilty of it myself. But if
22 you will do your best to let me get out my entire
23 question before you jump in with an answer, and I will
24 try to do the same when you're answering.

25 Can we agree to work on that together today?

1 A. Yes, we can.

2 Q. Okay. What did you do to prepare for your
3 deposition today?

4 A. I reread my expert opinion report and briefly
5 glanced at a supplemental report by Mr. Weir.

6 Q. Did you do anything else to prepare for your
7 deposition?

8 A. Met with Mr. Taylor for roughly three to four
9 hours yesterday and the day prior, and that's it.

10 Q. Where did you meet with Mr. Taylor?

11 A. Here at the same place.

12 Q. Where are you giving your deposition today?

13 A. We're in a remote office, similar to a WeWork
14 concept.

15 Q. Where?

16 A. This is in Las Colinas, Irving, Texas, at a
17 place called Foster Coworking Space.

18 Q. So you're in -- you're currently giving your
19 deposition from Irvine, Texas?

20 A. Irving.

21 Q. Irving.

22 A. Sorry.

23 Q. Okay. All right. Other than the -- you told
24 me you briefly reread your report, you read a
25 supplemental report of Mr. Weir, and you met with

1 Mr. Taylor yesterday for approximately three to four
2 hours; is that all correct?

3 A. That's correct.

4 Q. Okay. Did you do anything else to prepare for
5 your deposition today?

6 A. No, I did not.

7 Q. When you met with Mr. Taylor, was there anyone
8 else in the room?

9 A. No, there was not.

10 Q. Was there anyone attending that meeting by
11 telephone or Zoom?

12 A. No.

13 Q. Okay. All right. We'll go ahead and make
14 this depo notice the first exhibit. I do this just to
15 make sure that we are both familiar with how marking
16 exhibits work. So I'm going to go ahead and introduce
17 this one.

18 All right. You should be able to refresh now.
19 Hmm. That's odd. I don't see my sticker on here. Try
20 this -- we'll go back and try this again. It's not
21 always a well-oiled machine. I'll try a different way.

22 Okay. Now, refresh and see if you've got
23 Exhibit 1.

24 A. I don't see it.

25 Q. All right.

1 MR. EDWARDS: Trent, I think we can go off
2 the record for a second and --

3 MR. TAYLOR: Okay.

4 MR. EDWARDS: -- maybe -- maybe help
5 Mr. Sajnani out.

6 MR. TAYLOR: Okay.

7 THE VIDEOGRAPHER: We are off the record at
8 12:10 p.m.

9 (Recess from 12:10 p.m. to 12:13 p.m.)

10 THE VIDEOGRAPHER: We are back on the record
11 at 12:13 p.m.

12 (Exhibit No. 1 marked for identification.)

13 BY MR. EDWARDS:

14 Q. All right. And, Mr. Sajnani, we went off the
15 record. I think we figured out our exhibit share. And
16 I think, if I understand now, that you can see what
17 we've marked as Exhibit 1?

18 A. I can.

19 Q. Yes. That is the notice of your -- your
20 deposition, which is to occur today, April 19th, at
21 12:00 p.m. Central Time, correct?

22 A. Correct.

23 Q. Okay. And you're appearing today pursuant to
24 this notice, correct?

25 A. Correct.

1 Q. Okay. Have you reviewed any deposition
2 transcripts in this case?

3 A. I have reviewed several deposition
4 transcripts, and a lot of those are cited and referenced
5 in my opinion report.

6 Q. Have you reviewed any deposition transcripts
7 that are not listed in your report?

8 A. I don't recall. I'll have to go through the
9 report once again. I know I've referenced several.

10 Q. We're getting ready -- I'm sorry. I didn't
11 mean to interrupt. Please finish.

12 A. I'm just trying to recall the names. Connie,
13 Michelle, a couple others. Yeah, but I don't recall if
14 I have a hundred percent of them captured.

15 Q. Okay. As a preliminary matter, did you bring
16 your report with you today?

17 A. I have it.

18 Q. Do you have it in front of you?

19 A. Yes.

20 Q. Okay. We're going to make an exhibit of your
21 report here in just a minute, but I will tell you I
22 encourage you to look at your own report, if that helps,
23 as opposed to the one on the screen. It may just make
24 things quicker to get to. Okay?

25 A. Okay.

1 Q. One of the things to -- I should have reminded
2 you about earlier is it is important to give verbal
3 responses. It looks like you may be a bit like me, a
4 guy that nods "yes" and "no." We need to make sure we
5 give verbal responses. And when there's a yes-or-no
6 question, it's "yes" or "no" as opposed to things like
7 "uh-huh" and "uh-uh." If we can try to do that, it will
8 make a clear record. Okay?

9 A. Okay.

10 Q. The report that you brought with you, can you
11 hold it up?

12 Okay. You don't have any notes or anything
13 like that on that copy of the report?

14 A. No.

15 Q. Okay. Does that report include Exhibits 1 and
16 2?

17 A. They do not.

18 Q. Okay. Did you bring with you your CV and your
19 recent testimony list?

20 A. I have a recent testimony list. I don't have
21 a CV with me.

22 Q. Okay. When I make your report an exhibit, it
23 will have both of those included with it, so if we
24 need -- if you need to reference that -- I'm not trying
25 to create a memory test here. If you need to reference

1 it, it will be as part of the exhibit. Okay?

2 A. Okay.

3 Q. Have you read the deposition transcript of
4 Mr. Wilner?

5 A. I believe Mr. Wilner was a expert report, if
6 I'm not mistaken.

7 Q. He did, but his deposition was also taken last
8 week. I'm wondering if you've had the opportunity to
9 review his deposition transcript.

10 A. I don't recall.

11 Q. Okay. Do you recall if you reviewed any
12 deposition transcripts in the last week?

13 A. I don't -- I don't recall. I don't think so.

14 Q. Okay. How was contact made with you in this
15 case?

16 A. This was part of a -- I'm a part of several
17 consulting organizations, and the consulting
18 organization reached out to me, asking if I would be
19 suitable to opine on this.

20 Q. Okay. So what was the particular consulting
21 group in this case?

22 A. In this case it was GLG. I believe the full
23 form is Gerson Lehrman Group.

24 Q. All right. And GLG is a company that, among
25 other things, has relationships with expert witnesses,

1 and they will match those expert witnesses with firms
2 looking for an expert with certain specialities; is that
3 fair?

4 MR. TAYLOR: Objection; form.

5 You can answer.

6 A. That is my understanding.

7 BY MR. EDWARDS:

8 Q. Okay. Is that what happened in this case: GLG
9 reached out to you and put you in touch with McGuire
10 Woods?

11 A. That is correct.

12 Q. Okay. Who is the first lawyer that you talked
13 to at McGuire Woods?

14 A. It was Mr. Taylor.

15 Q. Okay. Have you talked with other lawyers at
16 McGuire Woods?

17 A. I believe Mr. Taylor's colleague once, a
18 couple -- few times.

19 Q. Who's that?

20 A. Mr. Frank Talbott.

21 Q. Sorry. I couldn't hear you.

22 A. Mr. Frank Talbott.

23 Q. Okay. And Mr. Talbott's an attorney?

24 A. I believe so.

25 Q. Okay. Have you ever worked with the McGuire

1 Woods firm prior to this?

2 A. This is my first time in a testimonial
3 capacity working with Mr. Taylor.

4 Q. Okay. What about in another capacity working
5 with Mr. Taylor?

6 A. A couple other matters, just within the last
7 12 months or so, nontestimonial in nature, and that's
8 all I can say about that.

9 Q. Why -- why are you -- why do you say that's
10 all you can say about that?

11 A. I do have some confidentiality agreements that
12 I signed with GLG.

13 Q. Okay.

14 A. Yeah.

15 Q. So you've worked on two other matters with
16 Mr. Taylor within the past 12 months, correct?

17 A. Not correct. I will rephrase what I said.

18 It was -- it was a matter. What I probably
19 tried to say is "a couple times."

20 Q. Okay. So other than the matter that we're
21 here about today, you've worked with Mr. Taylor on
22 another matter within the past 12 months?

23 A. That is correct.

24 Q. Other than that, have you ever worked with
25 Mr. Taylor or his firm on any other matters?

1 A. No, I have not.

2 Q. Okay. And with regard to that matter that you
3 have worked with, aside from the matter we're here about
4 today, it sounds like you're telling me if I ask you
5 questions about that, you're -- you're not going to
6 answer, based on your understanding of your
7 confidentiality requirements?

8 A. That is correct.

9 MR. TAYLOR: And just to put on the record,
10 I will also just caution him about conversations
11 with counsel that also would implicate both
12 privileged and confidential issues. So --

13 MR. EDWARDS: Right.

14 BY MR. EDWARDS:

15 Q. With regard to this other matter that you
16 worked with Mr. Taylor about within the last year, can
17 you tell me, at a very high level, what the matter
18 related to?

19 MR. TAYLOR: And I'm going to object to that
20 based on what I've just mentioned, which is the
21 confidentiality and privilege issues related to
22 nontestimonial work for lawyers. So, again, I'm
23 going to object to that.

24 BY MR. EDWARDS:

25 Q. Go ahead. Go ahead, Mr. Sajnani.

1 A. Unfortunately, I can't say more.

2 Q. Okay. Did you sign a retainer agreement in
3 this case?

4 A. No.

5 Q. And do you submit time for the work that
6 you've done in this case for billing purposes?

7 A. I do.

8 Q. Okay. And what is your hourly rate?

9 A. My hourly rate, I believe it's -- we have
10 stated that in the expert opinion report.

11 Q. Sure. Feel free to consult that if you need
12 to.

13 A. Towards the bottom of Page 1, we state that
14 GLG's being compensated at a rate of 725 per hour.

15 Q. When you say "we state," is there someone
16 other than yourself that assisted in drafting this
17 report?

18 A. I did myself. "We," I was referring to GLG
19 and myself, but GLG was not involved in drafting the
20 report. But my reference to "we" was me working on
21 behalf of GLG.

22 Q. Okay. So does -- do you or did GLG bill
23 McGuire Woods for your services here?

24 A. GLG did.

25 Q. Okay. Do you have an estimate as to

1 approximately how many hours you have in this Dollar
2 General case up to now?

3 A. I don't recall. GLG reaches out periodically,
4 asks me to provide an estimate of my time and my
5 activities. I don't have a recollection of the total.

6 Q. Sure. And I'm not trying to hold you to
7 anything specific. Can you ballpark it for me?

8 A. I don't recall.

9 Q. All right. You -- sitting here today, are you
10 able to tell me whether it's more like ten hours or a
11 hundred hours or a thousand hours?

12 A. It's certainly not a hundred or a thousand.
13 It's -- it's not that high.

14 Q. Okay. You believe that the total work you've
15 put into this case is less than a hundred hours so far?

16 A. Absolutely.

17 Q. Okay. Do you think it's less than 50 hours?

18 A. I don't recall that. I'd really have to go
19 back.

20 Q. Okay.

21 A. Yeah.

22 Q. Do you bill the same amount no matter what
23 activity you're engaged in?

24 A. I believe so, to my recollection.

25 Q. Okay. When is the last time you submitted

1 your time entries to GLG for billing?

2 A. Last time? I want to say sometime in the
3 month of -- month of -- month of March. They're
4 extremely -- extremely slow.

5 Q. Okay. Do you put -- along with the hours that
6 you spent, do you also describe the specific task that
7 you're working on in your time entries?

8 A. As best as I can, I try to. It's not always
9 perfect.

10 Q. Do you know when the most recent invoice was
11 sent to GLG by McGuire Woods?

12 A. I don't. I'm generally not privy to that
13 information.

14 Q. Can you give me a ballpark estimate on
15 approximately how much time you spent reviewing the data
16 and the large spreadsheet provided by Dollar General?
17 Do you know what I'm talking about?

18 MR. TAYLOR: Objection; form.

19 You can answer.

20 A. I have seen the spreadsheet, a large
21 spreadsheet with multiple tabs, and I've referred to it
22 back and forth. I don't recall specifically what the
23 total time would be.

24 BY MR. EDWARDS:

25 Q. Okay. Do you think it was more than ten

1 hours?

2 MR. TAYLOR: Objection; form.

3 You can answer.

4 A. I really don't recall it to put a number to
5 it.

6 BY MR. EDWARDS:

7 Q. Did you review all of the government audit
8 data in this case?

9 MR. TAYLOR: Objection; form.

10 You can answer.

11 A. I've reviewed all of the information that's
12 been made available.

13 BY MR. EDWARDS:

14 Q. Sure. My question is: Do you know if Dollar
15 General provided you with all of the government audits
16 involving New York Dollar General stores for this class
17 period?

18 A. I don't know if I can say that.

19 Q. Okay. Can you give me a ballpark estimate as
20 to approximately how many New York government audits you
21 reviewed?

22 MR. TAYLOR: Objection; form.

23 A. I mean no, but quite a bit. Some of the files
24 have multiple audits, so it was a very extensive PDF
25 file. Some were standalone audits. So I -- you know,

1 it's hard for me to tell.

2 BY MR. EDWARDS:

3 Q. In the litigation context, have any of your
4 opinions ever been excluded by a court?

5 A. No.

6 Q. Let's go ahead and mark your report as the
7 next exhibit. It will be Exhibit 2.

8 (Exhibit No. 2 marked for identification.)

9 BY MR. EDWARDS:

10 Q. I think you should be able to refresh and see
11 that.

12 A. Yes.

13 Q. I'm looking at Paragraph 1, the introduction
14 to your report, and about halfway down, do you see the
15 sentence that starts with "I am a consultant"?

16 A. I do.

17 Q. Okay. You write there, "I am a consultant for
18 the Gerson Lehrman Group, ('GLG'), and through GLG, I
19 was retained by counsel representing Dollar General to
20 review the relevant materials and opine on (1) the
21 accuracy, methodology, and reliability of government
22 audit reports of Dollar General stores in New York; (2),
23 whether the report (sic) for Plaintiffs, Mr. Weir, can
24 reasonably rely on these audit reports for his opinions;
25 (3), whether failed audits necessarily mean that

1 customers were charged more for particular items; and
2 (4), whether Dollar General's culture of compliance and
3 its operations relating to pricing and price
4 discrepancies are reasonable and comparable to others in
5 the industry."

6 Did I read that pretty close?

7 MR. TAYLOR: I'm going to object. I think
8 you misread No. 2, Adam.

9 MR. EDWARDS: I'll reread No. 2.

10 BY MR. EDWARDS:

11 Q. Number 2 states: "Whether the expert for
12 Plaintiffs, Mr. Weir, can reasonably rely on these audit
13 reports for his opinions."

14 Did I read that right?

15 A. Yes.

16 Q. Okay. With regard to No. 4 -- let me back up.

17 Would you agree what I just read encompasses
18 your assignment in this case?

19 MR. TAYLOR: Objection; form.

20 You can answer.

21 A. Yes.

22 BY MR. EDWARDS:

23 Q. Okay. As to No. 4, "whether Dollar General's
24 culture of compliance and its operations related to
25 pricing and price discrepancies are reasonable and

1 comparable to others in the industry," who are the
2 others in the industry that you're making this
3 comparison with?

4 A. I've got 20-plus years in -- in the industry,
5 in retail. We meet often as -- as a peer group.
6 There's quite a bit of networking that takes place. So
7 when I make this statement, it's really a collective
8 statement representing my interactions with all these
9 organizations, as well as organizations I've been with,
10 including my current organization, Conn's, who I was
11 with previously. I was also a public accountant with
12 Price Waterhouse Coopers; I had numerous retail clients,
13 like Target at the time.

14 So it's a lot of -- a lot of companies.

15 Q. Can you give me an example of some of the
16 companies you're referring to when you make this
17 comparison about Dollar General's culture and its
18 operations relating to pricing?

19 A. Yeah. Like I mentioned, you know, a few of
20 those would be Target, Conn's, EZ CORP. It could be
21 Best Buy. Best Buy's part of our peer group as well.
22 Rent-A-Center. HHGregg. A variety of companies.

23 Q. So for all those companies you just mentioned,
24 you're familiar with the details of their culture of
25 compliance and operations related to pricing and pricing

1 discrepancies?

2 MR. TAYLOR: Objection; form.

3 You can answer.

4 A. I'd say at a high level. I think all -- my
5 peer group, all chief audit executives, chief asset
6 protection executives, generally have an idea, you know,
7 what a robust and a sound control environment should
8 look like, what the compliance culture should look like.
9 We talk about those things, improvements, et cetera,
10 best practices.

11 I would say, yeah, 20-plus years of doing
12 this, I've -- I have a sense.

13 BY MR. EDWARDS:

14 Q. So have you actually helped some of these
15 companies implement procedures to address situations
16 where pricing accuracy is a problem or an issue?

17 MR. TAYLOR: Objection; form.

18 A. My own organizations that I've been -- that
19 I've been part of, you know, pricing challenges are --
20 are very common in retail, and, you know, a lot of our
21 work is meant to highlight those opportunities; and from
22 an audit standpoint, we make recommendations on how to
23 enhance the control environment.

24 BY MR. EDWARDS:

25 Q. Okay. You say your own companies. You mean

1 Conn's, for example?

2 A. Conn's, correct. EZ CORP as an example.

3 Q. Okay.

4 A. And going back to my public accounting days as
5 a consultant for Price Waterhouse Coopers,
6 recommendations made to our clients at the time.

7 Q. How does a company -- we'll just use the
8 Conn's example, for example. It's an electronics store
9 that I'm familiar with. How does a company like Conn's,
10 for example, come to learn that they're dealing with
11 issues with regard to pricing accuracy?

12 MR. TAYLOR: Objection; form.

13 You can answer.

14 A. Yeah, I mean, it can happen a few different
15 ways. You could have risk and control functions within
16 the company, like ourselves: asset protection, loss
17 prevention, internal audit. That's one way.

18 Another way is you have external firms
19 sometimes that the company hires from time to time; they
20 come in to provide assurance, and they opine on it.

21 And sometimes you have, typically, people
22 responsible for taking a temperature of, you know, kind
23 of where the customer's at, what kind of complaints are
24 coming from the field. Sometimes it comes from that:
25 customers will write it in, send you an email, maybe

1 have a Twitter page.

2 So it could come from a variety of different
3 angles.

4 BY MR. EDWARDS:

5 Q. Sure. Can you give me any concrete examples
6 of how a company like Conn's, for example, might become
7 aware of a problem with pricing discrepancy?

8 A. Yes. At Conn's, it wasn't uncommon when a
9 customer specifically called in to the office or sent an
10 email reporting a price discrepancy.

11 Q. Okay. So one specific way a store could learn
12 about pricing issues is customer complaints, correct?

13 A. Correct.

14 Q. What's another way?

15 A. Another way is our store associates, in their
16 day-to-day course of work, you know, find an inaccuracy
17 and they report it. It could be their superior; it
18 could be a district manager; could be a store manager.
19 It could come from a variety of different internal rules
20 for conducting spot checks.

21 Q. What's another example you could give me?

22 A. Another example would be the
23 third-line-of-defense function, which is an internal
24 audit function, like myself. Sometimes we bring it to
25 surface when we take the product -- in our audits, we

1 take a product physically from the shelf; we look at the
2 shelf price; we go all the way back to the POS system,
3 we ring that product up; we look at what it's ringing up
4 as.

5 You know, sometimes that's one method in how
6 these come to surface.

7 Q. Can you give me other examples of how a
8 company might become aware of pricing discrepancies?

9 A. I mean, there are several more. Let me think
10 about this.

11 Q. Is -- let me ask you this: Is a government
12 audit one way in which a company might become aware of
13 pricing discrepancies?

14 MR. TAYLOR: Objection; form.

15 You can answer.

16 A. Any -- I would say any audit.

17 BY MR. EDWARDS:

18 Q. Okay.

19 A. Internal audit, an external audit, yeah.

20 Q. But, specifically, government audit is one way
21 in which companies discover that they may have issues
22 with pricing inaccuracies; you'd agree with that?

23 MR. TAYLOR: Objection; form.

24 You can answer.

25 A. Government audits are one of those mechanisms

1 through which pricing discrepancies come to surface,
2 yes.

3 BY MR. EDWARDS:

4 Q. Okay. When you were working in your capacity
5 with -- either directly for companies like Conn's or
6 EZ CORP or peripherally with companies through Price
7 Waterhouse Cooper (sic), did you ever advise or direct
8 these companies on responding to failed government
9 audits and fines that ensued?

10 MR. TAYLOR: Objection; form.

11 You can answer.

12 A. Yeah. One of our responsibilities as a
13 third-line-of-defense function is to provide
14 recommendations as to how to improve the control
15 environment. So if an audit does surface a price
16 discrepancy, we would look at it and see if there are
17 opportunities to -- to enhance what the company's doing
18 internally.

19 But from a third line of defense, it is -- it
20 is not necessarily within our scope of work to advise,
21 quote/unquote, management or the board in terms of
22 the -- you know, what to do in terms of how to react.

23 BY MR. EDWARDS:

24 Q. Okay. So do you have any knowledge through
25 your experience in working with either companies about

1 situations where a company, for example, receives fines
2 from failed pricing audits and -- and challenges those
3 audits, as opposed to just paying the fines?

4 MR. TAYLOR: Objection; form.

5 A. Yeah. So I'll go back to what I stated
6 earlier in terms of the industry BUPs and the networking
7 and all the communication that takes place.

8 It is not common, in my experience, that
9 companies may do that, and I can draw a parallel to, you
10 know, banking as well, which is another industry I'm
11 very well familiar with. Oftentimes when there's a
12 regulatory observation that leads to a fine or a
13 penalty, you know, it is -- it is very common for
14 companies to -- to accept that and directionally go and
15 look for opportunities where they can make enhancements.

16 BY MR. EDWARDS:

17 Q. Is -- is that true even when the company has
18 reason to believe that the government audit data is
19 flawed or erroneous in some way?

20 MR. TAYLOR: Objection; form.

21 A. Yes, it is. Many companies decide to take
22 that route to maintain the healthy relation with
23 regulators, and it's a very individualistic strategic
24 decision that companies make.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. What do you mean when you say "maintain
3 a healthy relationship"?

4 A. Yeah. It's -- you know, I can give you an
5 example. You know, in banking, you know, I've been in
6 situations where the government audit was not favorable,
7 and it may have been something I did not agree with
8 personally, management did not agree with personally,
9 but there's always an element -- right? -- that, "Should
10 we challenge this? It's going to involve a considerable
11 amount of resources, a considerable amount of time."

12 And you just don't know how -- how a
13 government auditor may react to that. So I think it's
14 more, sort of, avoiding the -- the disruption, the
15 effort that's involved. Companies would rather, you
16 know, take the general theme and focus on any type of
17 improvements that they could make.

18 BY MR. EDWARDS:

19 Q. Okay. Thank you.

20 Your -- you've been employed as the chief
21 audit, asset protection, and loss prevention executive
22 at EZ CORP since April of 2020; is that correct?

23 A. Correct.

24 Q. And for someone who's not familiar with
25 EZ CORP, do they own retail stores?

1 A. EZ CORP owns a little over 1,200 retail
2 stores, yes.

3 Q. And primarily selling what?

4 A. General merchandise, electronics, power tools,
5 books --

6 Q. Is -- I'm sorry. You were saying?

7 A. Books, memorabilia, mostly secondhand.

8 Q. Secondhand. Okay. So are they -- is EZ CORP
9 akin to pawn shops?

10 A. An element of the business is, yes.

11 Q. Okay. So EZ CORP is not a competitor with
12 Dollar General?

13 MR. TAYLOR: Objection; form.

14 You can answer.

15 A. I would say yes, because if you take the --
16 it's a retail business. The pawn element -- the lending
17 element, is for those who have the need. It's not a --
18 it's not a requirement to do business. You can walk in
19 and purchase any product just like you would at any
20 other retail store.

21 BY MR. EDWARDS:

22 Q. Do EZ CORP retail stores operate in New York?

23 A. Not anymore.

24 Q. Okay. Prior to this case, have you had any
25 involvement with government audits specifically related

1 to pricing in New York?

2 MR. TAYLOR: Objection; form.

3 You can answer.

4 A. In New York? If I go long back, that would
5 be -- I mentioned Target earlier. Target would fall
6 under that, but not EZ CORP and not Conn's.

7 BY MR. EDWARDS:

8 Q. Okay. So what is your experience at -- when
9 you were with Target relating to government pricing
10 audits in New York?

11 MR. TAYLOR: Objection; form.

12 You can answer.

13 A. Yeah, a few -- few different ways. One is
14 reviewing audit reports from -- from an internal
15 consultant standpoint; so the company would hire us to
16 look at the reports and make recommendations --
17 right? -- on where improvements can be made. That was
18 one -- one way.

19 And the other was from a readiness standpoint.
20 It's -- you know, sometimes we would go in and conduct a
21 mock audit -- right? -- and that would then surface any
22 type of opportunities that can be addressed ahead of a
23 government audit.

24 So there are different ways you can be engaged
25 as an outside consultant.

1 BY MR. EDWARDS:

2 Q. So who you -- who were you working for when
3 you -- when you did work as an outside consultant for
4 Target in New York?

5 A. This is Price Waterhouse Coopers.

6 Q. Okay. So it sounds like you're telling me
7 when you were with Price Waterhouse Coopers, one of the
8 things that you did for Target was to review government
9 audit reports to make recommendations.

10 A. That's correct.

11 Q. Okay. And this was in New York, so they were
12 New York audit -- failed audit reports relating to
13 pricing, correct?

14 A. It was not specifically just New York. It was
15 a set of audits from a variety of different markets.

16 Q. Right. But New York was included, I think I
17 understood you to say.

18 A. If I recall, yes. I mean, this being two
19 thousand --

20 Q. Do you --

21 A. I mean, it's been a while.

22 Q. Okay. More than ten years ago?

23 A. For that specific audit, yes.

24 Q. Let me ask you this: Before you got involved
25 in this Dollar General case we're here about today, do

1 you have a specific recollection of seeing New York
2 government audit reports related to pricing
3 inaccuracies?

4 MR. TAYLOR: Objection; form.

5 You can answer.

6 Q. Yes. I recall -- I recall that.

7 BY MR. EDWARDS:

8 Q. And that -- and you gave me the example
9 already; that would be when you were with Price
10 Waterhouse Coopers and doing work for Target, who
11 operates in New York, correct?

12 A. Correct.

13 Q. Okay. And you would rely on those government
14 audit reports to make recommendations to the company,
15 correct?

16 MR. TAYLOR: Objection; form.

17 You can answer.

18 A. I wouldn't necessarily say "rely." We
19 would -- we would review the reports. We would try to
20 understand what was done, how it was done, and, first of
21 all, determine whether, you know, the output can be
22 relied upon -- right? -- and if there was any merit to
23 it, we would make recommendations independent of --

24 BY MR. EDWARDS:

25 Q. Do you -- do you recall, sitting here today,

1 whether you determined that the audit reports you
2 reviewed from New York governmental entities involving
3 pricing had merit?

4 MR. TAYLOR: Objection; form.

5 You can answer.

6 A. I don't recall.

7 BY MR. EDWARDS:

8 Q. So you may have relied on government audit
9 reports when you were doing work from -- for Target
10 ten-plus years ago, but you just don't recall one way or
11 the other, sitting here today; is that fair?

12 MR. TAYLOR: Objection; form.

13 A. Hard for me to comment on that, honestly.

14 It's -- it's been a while.

15 BY MR. EDWARDS:

16 Q. Okay.

17 MR. EDWARDS: Let's go off the record, just
18 taking our first brief comfort break, please.

19 THE VIDEOGRAPHER: We are off the record at
20 12:50. This is the end of Media Unit No. 1.

21 (Recess from 12:50 p.m. to 1:01 p.m.)

22 THE VIDEOGRAPHER: This is the beginning of
23 Media Unit No. 2. We are on the record at
24 1:01 p.m.

25 - o -

1 BY MR. EDWARDS:

2 Q. All right. Mr. Sajnani, is there anyone else
3 in the room with you there where you're giving your
4 deposition?

5 A. No.

6 Q. Okay. Mr. Taylor's not in the room with you?

7 A. Mr. Taylor is. I'm sorry. Besides him and I,
8 there's nobody else.

9 Q. Okay. I just want to close the loop on the
10 questioning that I was engaged in before the break, so
11 I'll try to do that.

12 In your report, you challenge the accuracy of
13 some of the government audit findings in New York Dollar
14 General stores, correct?

15 MR. TAYLOR: Objection; form.

16 A. Correct.

17 BY MR. EDWARDS:

18 Q. Okay. Prior to your involvement in this case,
19 do you know whether Dollar General ever challenged the
20 accuracy of these failed pricing audits in New York?

21 MR. TAYLOR: Objection; form.

22 You can answer.

23 A. I do not.

24 BY MR. EDWARDS:

25 Q. Okay. Looking back at your -- your CV, which

1 you've attached as an exhibit to your report, is this
2 still accurate and up to date, to the best of your
3 knowledge?

4 A. Give me a minute to scroll there.

5 Q. Sure.

6 A. It is.

7 Q. Okay. And I'm looking now at the six cases
8 that you listed as -- it says "Testimony/Reports in Last
9 4 Years." Do you see that?

10 A. I see it.

11 Q. Is this all the litigation cases you've worked
12 on in the last four years, the six listed here?

13 MR. TAYLOR: Objection; form.

14 You can answer.

15 A. The -- the four years, that's -- that's an
16 error. Some of these go back way further. The last
17 four years specifically, it would be the first two.

18 BY MR. EDWARDS:

19 Q. Okay. I'm assuming No. 2 is, as the name
20 implies, an insider trading case.

21 A. That's correct.

22 Q. Okay. Can you tell me, at a high level, what
23 the mandatory block leave case was about?

24 A. At a high level, it's -- it pertains to
25 Sarbanes-Oxley compliance and mandatory rotations within

1 key accounting and finance functions within an
2 organization, within a bank specifically.

3 Q. Who -- did you provide testimony or expert
4 report in that case?

5 A. As stated here, it was an expert report.

6 Q. Okay. Did -- let me -- that's a bad question.
7 Let me rephrase it.

8 Did you provide testimony in that case?

9 A. No.

10 Q. Who did you provide an expert report for?
11 What side?

12 A. This was the defendant.

13 Q. Okay. Have you ever been retained by
14 plaintiffs or consumers in a consumer class action case?

15 MR. TAYLOR: Objection; form.

16 You can answer.

17 A. Repeat that, please. Have I ever been
18 retained for?

19 BY MR. EDWARDS:

20 Q. Right. Have you ever been retained by
21 consumers or attorneys representing plaintiffs in a
22 consumer class action case?

23 MR. TAYLOR: Same objection.

24 You can answer.

25 A. No.

1 BY MR. EDWARDS:

2 Q. So this is -- let me ask this question: Have
3 you ever given testimony for either side in a consumer
4 class action case before this one?

5 MR. TAYLOR: Same objection.

6 You can answer.

7 A. No.

8 BY MR. EDWARDS:

9 Q. There's a section of your report where you
10 list out the documents that you relied upon or -- let me
11 rephrase that.

12 In Section 3 of your report, on Page 2, you
13 discuss the documents that you've relied upon, and you
14 state that those documents are included throughout your
15 report, referenced throughout your report; is that
16 correct?

17 A. That's correct.

18 Q. All right. Are there other documents that you
19 reviewed and relied upon, other than those documents
20 that you cite in your report?

21 A. I don't recall. There's a large volume of
22 information. I don't recall if everything is cited.

23 Q. Okay. Starting on Page 10, you have bullet
24 points, and I -- let me count these up. You list nine
25 errors or deviations from procedures that you saw in the

1 county audit reports, correct?

2 MR. TAYLOR: Objection; form.

3 You can answer.

4 A. On this report, I see six deviations and
5 errors. The next three pertain to another matter.

6 BY MR. EDWARDS:

7 Q. I see.

8 A. And --

9 Q. I appreciate that clarification. So here in
10 this report, you point out six what you -- what you
11 believe to be deviations from procedure that you saw in
12 county audit reports for Dollar General stores in
13 New York?

14 MR. TAYLOR: Objection; form.

15 You can answer.

16 A. Yeah. To clarify, these are the six I decided
17 to cite and reference. It does not necessarily indicate
18 that these were the only errors.

19 BY MR. EDWARDS:

20 Q. Right. Well, if there's -- if you have
21 opinions that aren't included here in your report, I'd
22 like to know about them.

23 A. The opinion doesn't change, and it's not a --
24 what I mean is I did not state -- I may not have stated
25 many that I felt were repetitive in nature, and so I

1 limited it to these -- these six, but it doesn't impact
2 the opinion.

3 BY MR. EDWARDS:

4 Q. I see. On -- starting on Page -- Page 3 of
5 your report, you start listing a number of bullet points
6 which you classify as examples where county audits were
7 incorrect. Do you see that?

8 A. I do.

9 Q. Okay. My question is: Did you locate the
10 information in these ten bullet points you set forth in
11 your report by yourself, or did you work with
12 individuals at Dollar General to -- to identify what
13 you've described as errors?

14 MR. TAYLOR: Objection; form.

15 You can answer without getting into any
16 conversations with counsel.

17 A. I want to make sure I understand the question
18 correctly. Are you asking if I found these in my review
19 of the materials?

20 BY MR. EDWARDS:

21 Q. Well, I'm asking if you worked with any other
22 individuals in identifying the errors that you set forth
23 in these bullet points starting on Page 3 of your
24 report.

25 MR. TAYLOR: Same objection. Same caution.

1 You can answer.

2 A. And, look, I've gone through a very large
3 volume, of sets of data, and a lot of these were for
4 things I've noted, things I've marked and extracted out
5 in my opinion, and I've had, you know, conversations
6 here and there with counsel throughout.

7 BY MR. EDWARDS:

8 Q. Yeah. My -- my question, though, is: Did you
9 identify the problems or errors, as you've described
10 them, with the data as set forth in these bullet points
11 starting on Page 3 by yourself, exclusively or with the
12 assistance of someone at Dollar General?

13 MR. TAYLOR: Objection; form. Same caution.

14 You can answer.

15 A. I haven't interacted with anybody from Dollar
16 General.

17 BY MR. EDWARDS:

18 Q. So the answer is "no," you found these errors
19 exclusively by yourself?

20 MR. TAYLOR: Objection; form.

21 You can answer.

22 A. Yes. I mean, I don't know how else -- yeah.

23 BY MR. EDWARDS:

24 Q. Okay. And I'll give you an example. Number 1
25 here, Old El Paso Grande Tortilla that you set forth on

1 Page 3, or any of the others, did someone at Dollar
2 General point you to a specific line to look at in the
3 Dollar General data spreadsheet to say, "Hey, heads up,
4 check this one," for example?

5 A. No.

6 MR. TAYLOR: Objection; form.

7 Go ahead.

8 BY MR. EDWARDS:

9 Q. Okay. So you had no help at all in
10 identifying each of these errors you set forth on --
11 starting on Page 3?

12 MR. TAYLOR: Objection; form.

13 You can answer.

14 A. Outside of back-and-forth, just, my
15 communication with counsel, no.

16 BY MR. EDWARDS:

17 Q. Okay.

18 A. I oftentimes may have clarification based on
19 my review. I've reached out, and we'd have some
20 discussions, and that's about it.

21 Q. So are you telling me that you did have some
22 assistance in -- through conversations with counsel in
23 identifying these errors?

24 MR. TAYLOR: Objection; form.

25 Objection; don't into the content of those

1 conversations, but you can answer that question.

2 A. Yes. I mean, there were conversations with
3 counsel in helping clarify my understanding, yeah.

4 BY MR. EDWARDS:

5 Q. Okay. And that would be Mr. Taylor?

6 A. That's correct.

7 Q. I think I asked you this earlier, but did
8 Mr. Taylor or someone from his office provide you with
9 the audits that you reviewed the New York audits?

10 MR. TAYLOR: Objection; form.

11 A. Mr. -- Mr. Taylor -- Mr. Taylor's firm
12 provided me with the material to review.

13 BY MR. EDWARDS:

14 Q. Okay. And I'll ask a more specific question.
15 I'm referring specifically to the audits in New York
16 related to pricing by governmental entities.
17 Mr. Taylor's firm provided you with those audits that
18 you reviewed?

19 A. Yes.

20 Q. Sitting here today, do you know if all of the
21 audits during the relevant class period were provided or
22 whether some were selected for your review?

23 MR. TAYLOR: Objection; form.

24 You can answer.

25 A. I don't know.

1 BY MR. EDWARDS:

2 Q. Okay. You haven't asked?

3 MR. TAYLOR: I'm going to object to
4 getting -- without getting into the conversations
5 with counsel, you can answer, given that
6 cautionary.

7 THE WITNESS: I'm not.

8 BY MR. EDWARDS:

9 Q. Would you have liked to have seen all the
10 audit data for the relevant class period relating to
11 pricing? I'm talking about the audit data from
12 governmental entities.

13 MR. TAYLOR: Objection; form. Object to
14 assumes facts not in evidence.

15 You can answer.

16 A. Yeah, the reports I've reviewed are sufficient
17 for my -- for my conclusion.

18 BY MR. EDWARDS:

19 Q. Okay. Do you have any idea how many products
20 were listed as overcharges throughout this class period
21 by New York officials?

22 MR. TAYLOR: Objection; form.

23 You can answer.

24 A. In aggregate, no.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. Do you have any idea what percentage of
3 the overcharges that New York government auditors found
4 were, in your opinion, erroneous, for some reason?

5 MR. TAYLOR: Objection; form.

6 You can answer.

7 A. Not as a rule.

8 BY MR. EDWARDS:

9 Q. Okay. So you don't know, sitting here today,
10 whether the audits from New York officials that you
11 reviewed have a 1 percent error rate, a 10 percent error
12 rate? You can't give any opinion on that?

13 MR. TAYLOR: Objection; form.

14 You can answer.

15 A. The individual audit reports have notes in
16 them, but those are specific to that particular audit,
17 and they all vary from one audit to another.

18 BY MR. EDWARDS:

19 Q. I asked a confusing question, so I'll rephrase
20 it. I'm not talking about the pass-fail rate for the
21 products tested.

22 A. Okay.

23 Q. You've identified ten examples in your report
24 where you believe that cites to overcharges by
25 government officials were erroneous, correct?

1 A. Correct.

2 Q. How many -- I'm assuming you didn't include --
3 you did not include every example you found in your
4 report. Is that correct?

5 A. That's correct.

6 Q. Okay. How many total examples did you find
7 where there was a cited overcharge in a New York
8 government official's report in total?

9 MR. TAYLOR: Objection; form.

10 A. That's very difficult to say. Now -- yeah, I
11 would -- I wouldn't be able to estimate that.

12 BY MR. EDWARDS:

13 Q. Was it more than 50?

14 A. I really don't know. I really don't know.

15 Q. Okay. Is there a specific reason why you
16 chose to only include these ten, these ten examples of
17 bullet points starting on Page 3?

18 MR. TAYLOR: Objection; form.

19 You can answer.

20 A. I don't -- I don't necessarily recall my
21 logic. As I was conducting my review, I was noting
22 things done, and, you know, once I saw a certain
23 pattern, I started putting them together. But I don't
24 necessarily recall why this and not another one.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. But I think we're on the same page.
3 You -- your testimony today is that you did find other
4 examples of errors in the government audit data, and by
5 "errors," I mean errors by the New York officials when
6 they found an overcharge for a product, correct?

7 MR. TAYLOR: I'm going to object as asked
8 and answered.

9 You can answer.

10 A. I wouldn't -- I wouldn't necessarily say --
11 the errors are of all sorts. You know, pricing-related
12 matters are just -- are just one.

13 But I state in this report -- and I've
14 referenced it in many places -- all the different types
15 of errors I identified. So I think the answer to your
16 question -- right? -- so, yes, there's a variety of
17 errors. I wouldn't necessarily restrict it to saying
18 it's only a certain type of an error.

19 BY MR. EDWARDS:

20 Q. Right. Okay. But you chose to give ten
21 examples in your report of audit errors, correct?

22 MR. TAYLOR: Objection; form.

23 You can answer.

24 A. I listed -- I listed ten. Correct.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. And why did you choose to list just
3 those ten?

4 A. Yeah. As I said, this is -- you know, I don't
5 recall my rationale at the time I was going through the
6 documents and why I listed these and not others that are
7 similar in nature or different. I don't quite -- I
8 don't recollect what that rationale was.

9 Q. Do you have any notes or writings of any kind
10 which set forth other examples, other than these ten
11 here, of -- of errors with the audit data?

12 MR. TAYLOR: I'm going to object as to
13 getting into privileged draft information. He
14 can answer that specific question without getting
15 into the contents, but I just want to flag that
16 this is getting into some, you know,
17 confidential, privileged, protected information.

18 But you can answer that specific question.

19 A. Yeah. As I understood that, do I have notes
20 that call out additional exceptions? I don't have
21 notes.

22 BY MR. EDWARDS:

23 Q. Okay. Do you believe that one of the reasons
24 why you selected these ten examples of county audit
25 errors starting on Page 3 with the bullet points is

1 because you believe these to be the clearest examples of
2 errors with regard to Dollar General products?

3 MR. TAYLOR: Objection; form.

4 You can answer.

5 A. Let me put it this way: I just -- just
6 because I did not list them here doesn't necessarily
7 indicate that they weren't clear to me. I will just go
8 back to saying I -- I don't recall the rationale why I
9 chose these in particular. These are pretty clear, but
10 I really don't recall the -- the approach.

11 BY MR. EDWARDS:

12 Q. So sitting here today, it sounds like you're
13 not able to state any of the reasons why you selected
14 these ten examples, starting on Page 3 of government
15 audit errors, in your opinion, correct?

16 MR. TAYLOR: Objection; form.

17 You can answer.

18 A. I don't. I mean, I will add that, you know,
19 these are -- these are errors that make me question the
20 reliability of the reports themselves, which was one of
21 the duties I was tasked with, really: to opine on the
22 reliability and the integrity of the data.

23 So, you know, it supports my conclusion. I
24 further mention on Page 5 that these are just a few
25 examples of the inaccuracies in the audit data. It

1 isn't clear why so many of the audit reports were
2 incorrect. But, you know, there were several
3 inaccuracies, and I -- I don't know the specific reason
4 why these ten were chosen.

5 BY MR. EDWARDS:

6 Q. But sitting here today, aside from these ten,
7 you're not able to provide additional examples of
8 inaccuracies in the audit data, correct?

9 MR. TAYLOR: Objection; form.

10 You can answer.

11 A. Other than what's already in this opinion
12 report, off the top of my head, I don't -- I don't
13 recall specific issues that involve any type of product
14 names or pricing.

15 BY MR. EDWARDS:

16 Q. Okay. On Page 3 of your report -- scratch
17 that. I'll start again.

18 On Page 2 of your report, in the first
19 paragraph under Section 3, I'm looking at the sentence
20 which starts with "I reserve the ability to." Do you
21 see that?

22 A. Yes.

23 Q. There, you wrote in your report: "I reserve
24 the abilities to (a) review documents, deposition
25 transcripts, expert reports, or other information still

1 to be produced by the parties to this dispute and, (b),
2 supplement my opinions based upon that review if
3 appropriate."

4 Did I read that right?

5 A. Yes.

6 Q. Why did you include this sentence in your
7 report?

8 MR. TAYLOR: Objection; form.

9 A. I'd like to know if anything subsequent was
10 available for me to review.

11 BY MR. EDWARDS:

12 Q. But you specifically reserved the right to do
13 additional work and modify your opinions in the event
14 additional data is produced; is that right?

15 A. I think it depends on the data. I do -- I do
16 reserve the -- the ability to review any new information
17 that surfaces. Based on the information I have, you
18 know, this is my opinion.

19 Q. So let me ask you this: If additional data
20 comes to light which you believe is relevant, you
21 reserve the right to modify your opinions in this
22 report?

23 MR. TAYLOR: Objection; form.

24 You can answer.

25 A. Yes. I would like to review the data.

1 BY MR. EDWARDS:

2 Q. Okay. All right. Let's go ahead and make the
3 next exhibit here. This one may take a minute because
4 it's very large. It's DG_WOLF_40562, the large data
5 spreadsheet. Okay? And we're going to call that
6 Exhibit 3.

7 (Exhibit No. 3 marked for identification.)

8 BY MR. EDWARDS:

9 Q. I've introduced it, but it hasn't loaded yet
10 because it's a huge document, so we'll just give it a
11 minute.

12 All right. Are you able to see that now?

13 A. It's loading on my end. I can see the
14 perimeter, but the data hasn't loaded yet.

15 Q. I figured it might take a minute.

16 A. There it is.

17 Q. Okay. You're familiar with this document
18 which we've identified as Exhibit 3, the large
19 spreadsheet?

20 A. I believe so.

21 Q. Okay. And are you -- are you clicked on the
22 "DG Data" tab at the bottom?

23 A. I'm there now.

24 Q. Okay. On the left side, do you see "Date" on
25 the far left, top left corner?

1 A. Yes.

2 Q. And then next to that it says "Original Sort
3 Order"?

4 A. Yes.

5 Q. Is -- I want to make sure and confirm. On
6 your screen, the products are sorted by the original
7 sort order; in other words, the -- the first entry there
8 in Row 2 would be -- No. 1 under "Original Sort Order,"
9 it would be "Hanes Boy's Tagless Briefs"?

10 A. Yes.

11 Q. Okay. Sounds like we're on the same page.
12 Whew.

13 Can you describe your understanding of how
14 this document was created?

15 MR. TAYLOR: Objection; form.

16 A. Yeah. This is a -- you know, sitting here,
17 it's been a while since I looked at this. I can't -- I
18 cannot walk you through how this was created.

19 BY MR. EDWARDS:

20 Q. Okay. Do you know the criteria used to match
21 the items from the government audits to the items in --
22 in this spreadsheet, the Dollar General transaction
23 data?

24 MR. TAYLOR: Objection; form.

25 You can answer.

1 A. I don't recall.

2 BY MR. EDWARDS:

3 Q. Other than counsel, have you spoken with any
4 individuals at Dollar General about the information
5 Dollar General input into the spreadsheet?

6 A. No.

7 Q. Did you perform an audit or thorough review of
8 the information in this spreadsheet for accuracy?

9 MR. TAYLOR: Objection; form.

10 You can answer.

11 A. No.

12 BY MR. EDWARDS:

13 Q. But you did rely upon this spreadsheet, 40562,
14 to identify the price discrepancies in Section A of your
15 declaration, correct?

16 MR. TAYLOR: Objection; form.

17 You can answer.

18 A. This was -- yeah. This was one of the many
19 files I relied on for my opinion.

20 BY MR. EDWARDS:

21 Q. In fact, you relied on the information in this
22 spreadsheet specifically to identify the pricing
23 discrepancies you set forth in your report, correct?

24 MR. TAYLOR: Objection to form.

25 A. In some of them, yes.

1 BY MR. EDWARDS:

2 Q. I'd like to run through some of the key fields
3 to make sure that we share the same understanding of
4 each field and ensure that there's no confusion. Okay?
5 To do that, we'll go ahead and mark Exhibit 4.

6 (Exhibit No. 4 marked for identification.)

7 BY MR. EDWARDS:

8 Q. It is also a spreadsheet, so I can't put an
9 exhibit tag on it, but I have just introduced it as
10 Exhibit 4. It's a smaller spreadsheet, so it will,
11 hopefully, populate for you quicker.

12 A. I have it.

13 Q. Okay. So this is Exhibit 4, and it's DG_WOLF
14 Bates 00040563. Okay? The question is: Have you
15 reviewed this document before today?

16 A. I don't recall. I really don't.

17 Q. Okay. So do you know what the original sort
18 order is as set forth in the large spreadsheet we've
19 marked as Exhibit 3?

20 MR. TAYLOR: Objection; form.

21 A. Can you clarify the question?

22 BY MR. EDWARDS:

23 Q. I'll cut to the chase here. The first column
24 label is "Original Sort Order." Do you agree? I'm
25 looking back at Exhibit 3, the large spreadsheet.

1 A. Hang on. I have to exit out of this. I don't
2 have them side by side. It's loading. One second.

3 Column A is "Date," and Column B is the sort
4 order.

5 Q. Okay. I'm going to identify lines -- products
6 by sort order. Can we agree to do that, so you'll know
7 how to get to the products I'm referencing?

8 A. Yes.

9 Q. And each item identified by the original sort
10 order has 30 corresponding rows or entries; is that
11 correct?

12 A. I'll have to count them, but I do see a number
13 of columns.

14 Q. And are you aware that each row corresponds to
15 30 days before the violation or audit date, which may or
16 may not have had a customer sale? Do you understand
17 that?

18 MR. TAYLOR: Objection; form.

19 You can answer.

20 A. I don't recall the details at the time I was
21 looking at this for my analysis.

22 BY MR. EDWARDS:

23 Q. Okay. You're aware that this Dollar General
24 spreadsheet contains sales information for products
25 identified by government audits as overcharges?

1 A. I believe that sounds familiar, but, again, I
2 can't say with full certainty. I don't recall when I
3 was doing this, you know, what -- what I was referencing
4 to at the time.

5 Q. Do you know, sitting here today, how far back
6 in time from the government audit the sales information
7 contained in this spreadsheet goes?

8 A. I don't recall.

9 Q. Okay. Is it your opinion that during this
10 class period, which started on May 30th, 2020, no
11 product on the shelf at a New York Dollar General store
12 was inaccurately priced on the shelf for more than 30
13 days?

14 MR. TAYLOR: Objection; form.

15 A. I'm not clear on the question.

16 BY MR. EDWARDS:

17 Q. Do you have an opinion as to whether during
18 this class period, starting in May of 2020, any product
19 on the shelf at a New York Dollar General store was
20 inaccurately priced on the shelf for more than 30 days?

21 MR. TAYLOR: Objection; form.

22 You can answer.

23 A. Yeah, I -- I don't know. I don't have an
24 opinion, sitting here.

25 - o -

1 BY MR. EDWARDS:

2 Q. Is it possible that a product identified as an
3 overcharge by a government audit sat on the Dollar
4 General shelf inaccurately priced for more than 30 days?

5 MR. TAYLOR: Objection; form.

6 You can answer.

7 A. That's hard to tell. I don't -- I can't tell.

8 BY MR. EDWARDS:

9 Q. The question is: Is it possible?

10 MR. TAYLOR: Same objection.

11 A. I don't know.

12 BY MR. EDWARDS:

13 Q. Do you see the column labeled "Shelf Retail"?

14 A. Yes. Column M.

15 Q. Okay. Do you know what that refers to?

16 A. I would assume what it says, but I -- again, I
17 can't say for sure without spending more time reviewing
18 this.

19 Q. Well, it just says "Shelf Retail," right?

20 A. Yes, it does.

21 Q. I'm wondering if you know what that means in
22 the context of this spreadsheet.

23 MR. TAYLOR: Objection; form.

24 A. Definitionally, I don't, in the context of
25 this spreadsheet at this point, no.

1 BY MR. EDWARDS:

2 Q. On the same spreadsheet, go to Column N1. It
3 states "POS Retail." Do you see that?

4 A. I do.

5 Q. What does that refer to?

6 A. Again, I would say the same. You know, I see
7 what it says, I see what it reads, but definitionally,
8 technically speaking as it pertains to this spreadsheet,
9 I -- it's hard for me to conclude right now.

10 Q. So you see that there, in Column N, are a
11 number of prices for many, many, many products at Dollar
12 General, under the heading "POS Retail," correct?

13 A. Correct.

14 Q. But do you know what those prices refer to?

15 MR. TAYLOR: Objection; form.

16 A. I'll say the same: I -- you know, I don't
17 know at this point.

18 BY MR. EDWARDS:

19 Q. Do you know how the New York inspector or
20 auditor that performed any of these government audits at
21 issue in this case would obtain the POS retail price?

22 MR. TAYLOR: Objection; form.

23 You can answer.

24 A. In reviewing the audit reports, again, I don't
25 recollect -- a lot of the audit reports, and I've stated

1 that here in my opinion, it -- it does not appear from
2 reading the report and the notes and the procedures that
3 the auditor actually verified the pricing to the
4 point-of-sale terminal. So, you know, I -- I can't
5 conclude whether -- whether or not they did. It doesn't
6 seem like they did.

7 BY MR. EDWARDS:

8 Q. So where did -- where does the pricing
9 information in Column N labeled "POL" -- "POS Retail"
10 come from?

11 A. I don't -- I don't recall. I don't know.

12 Q. Okay. So on the same spreadsheet we've marked
13 as Exhibit 3, under Column T1, do you see "Store
14 Retail"?

15 A. I do.

16 Q. Do you know what "Store Retail" refers to?

17 A. I don't.

18 Q. Okay. And you see in Column W1, it states
19 "Default Retail," correct?

20 A. Correct.

21 Q. Do you know what "Default Retail" refers to?

22 A. I don't recall.

23 Q. Okay. And under Column X1, it states "Retail
24 at Audit." Do you see that?

25 A. I do.

1 Q. Do you know what "Retail at Audit" refers to?

2 A. I don't recall.

3 Q. So I'm assuming you couldn't tell us the
4 relationship between "Store Retail," "Default Retail,"
5 and "Retail at Audit," as those -- as that information
6 is described and set forth in this Dollar General
7 spreadsheet we've marked as Exhibit 3, correct?

8 MR. TAYLOR: Objection; form.

9 You can answer.

10 A. At this point, looking at this, you know, with
11 limited time, I -- you know, I can't tell.

12 BY MR. EDWARDS:

13 Q. But you looked at this -- you looked at this
14 spreadsheet and relied on this spreadsheet in forming
15 your opinions set forth in your report, correct?

16 A. That's correct.

17 Q. Okay. Do you -- do you know why "Store
18 Retail" is not available -- would not be available for
19 some of the products listed in this spreadsheet?

20 MR. TAYLOR: Objection; form.

21 A. I don't know the answer. I don't recall.

22 BY MR. EDWARDS:

23 Q. Do you know why "Store Retail" might differ
24 from "Default Retail"?

25 MR. TAYLOR: Objection; form.

1 A. I don't recall at this point.

2 BY MR. EDWARDS:

3 Q. Did you conduct any sort of analysis of the
4 differences, if any, between the "Store Retail" and the
5 "Default Retail" prices listed in Exhibit 3, this
6 spreadsheet?

7 A. Look, I mean, it's been a while, and, you
8 know, when I was reviewing this, there's a variety of,
9 you know, analyses or procedures -- however you want to
10 call it -- that I conducted, you know, with ample time
11 on hand.

12 You know, right now, looking at it, it's hard
13 for me to walk through it and ensure I'm understanding
14 the -- the headers.

15 Q. Before you generated your report in this case,
16 describe for me the analysis that you conducted of the
17 differences between "Store Retail" and "Default Retail"
18 prices listed in this spreadsheet.

19 MR. TAYLOR: Objection; form.

20 You can answer.

21 A. Yeah. It's -- it's been -- it's been a while.
22 I just can't recall that.

23 BY MR. EDWARDS:

24 Q. How long has it been since you looked at this
25 spreadsheet before today, Exhibit 3?

1 A. I -- not recently. I don't recall.

2 BY MR. EDWARDS:

3 Q. Okay. Was it during the time when you were
4 preparing this report?

5 A. I really don't recall.

6 Q. When did you prepare your expert report in
7 this case?

8 A. That's also a good question. I don't recall
9 that.

10 Q. The report is dated March 18th, 2024, correct?
11 That's when you executed it?

12 A. That's when I signed it. Correct.

13 Q. Okay. Do you know approximately how -- how
14 long you started working on this report prior to its
15 submission in March of 2024?

16 MR. TAYLOR: Objection; form.

17 A. I don't -- I don't recollect, no.

18 BY MR. EDWARDS:

19 Q. Let's walk through some of your ten examples
20 that you set forth where you believe that the county
21 audit data is erroneous. Are you with me?

22 A. I am.

23 Q. Give me just a second, please.

24 Okay. Turn to Page 4 of your report for me,
25 please.

1 A. Yes.

2 Q. Read me the last bullet point into the record,
3 please, that starts with "On April 19th," that entire
4 bullet point.

5 A. "On April 19th, 2022, an auditor inspected a
6 Dollar General store in Manchester, New York. In doing
7 so, he noted that Rexall Ointment in that store had a
8 shelf price of \$3.25 but had a register price of \$3.45."

9 See DG-WOLF citation.

10 "However, Dollar General pulled what the
11 register price was for that item during that time frame,
12 and it was listed as \$3 (and had been at that same price
13 for at least ten months)."

14 We have another reference citation, and this
15 is in the parentheses: "DG Data tab, original sort order
16 696, Columns U-AD," closed parentheses.

17 "Moreover, during the 30 days preceding that
18 audit, there was one sale of that item, and it was for
19 \$3," and the transaction ID is also mentioned as
20 979402541.

21 Q. Okay.

22 (Exhibit No. 5 marked for identification.)

23 BY MR. EDWARDS:

24 Q. I've marked as Exhibit 5 the price
25 verification report, or inspector audit report, as we've

1 been referring to it. It's Bates Nos. 0004136 and 4137.

2 Let me know when you're able to view that, please.

3 A. It's up on the screen.

4 Q. Okay. Turn to the second page of Exhibit 5,
5 which is Bates 0004137. Are you there?

6 A. I am.

7 Q. And there, under Line 2, you see "Rexall
8 Ointment," correct?

9 A. Yes.

10 Q. That's the item that the government inspector
11 in New York identified as having a pricing error,
12 correct?

13 A. Correct.

14 Q. And you cited this in your declaration,
15 correct?

16 A. What are you looking at?

17 Q. Your report.

18 A. 3.45. Yes.

19 Q. Okay. And what is the -- well, first of all,
20 you're aware that you can use the plus and minus tabs at
21 the top of this page to zoom in?

22 A. Yes. Thank you for that.

23 Q. Okay. What is the SKU that the auditor noted
24 there for this product?

25 MR. TAYLOR: Objection; form. Objection;

1 misstates the testimony.

2 You can answer.

3 BY MR. EDWARDS:

4 Q. The Rexall product that you refer to in your
5 report?

6 A. It looks like a 595303.

7 Q. Okay. 595303. Now, let's go back to
8 Exhibit 3, which is the large data spreadsheet that you
9 relied on, and go down to "Original Sort Order 696,"
10 please.

11 A. Okay. I'm there.

12 Q. Well, you made it there faster than I did, so
13 give me just a sec.

14 Okay. Under "696," this is the Rexall
15 Ointment at issue, correct?

16 A. It appears so.

17 Q. Okay. And to confirm your testimony earlier,
18 the auditor wrote down the SKU for the Rexall product at
19 issue as 595303, correct?

20 MR. TAYLOR: Objection; form.

21 You can answer.

22 A. I know we just looked at it. I don't quite --
23 I think that sounds right.

24 BY MR. EDWARDS:

25 Q. Okay. And go over to the "Identified Dollar

1 General SKU" column for the Rexall product at issue.

2 Are you there?

3 A. You want me to go to the item number? I'm
4 sorry?

5 Q. The "Identified DG SKU."

6 A. Give me a second. "Identified DG SKU."

7 Yes, Column G.

8 Q. Okay. That SKU number is 00596901, isn't it?

9 A. Yes.

10 Q. That's different than the product that the
11 auditor identified in his report, isn't it?

12 MR. TAYLOR: Objection; form.

13 You can answer.

14 A. Yeah. Hard -- hard to tell. I'm doing this
15 live with you. Ideally -- right? -- I'd like to have
16 everything and sort of take my time looking at it and
17 corroborate it. It's difficult to tell now when we're
18 bouncing around different files.

19 BY MR. EDWARDS:

20 Q. Let's go over to next to Rexall Ointment. It
21 starts with a "245." Do you see that?

22 MR. TAYLOR: Can you tell me what column it
23 is, Adam?

24 MR. EDWARDS: "D."

25 MR. TAYLOR: "D." Okay.

1 THE WITNESS: 245303.

2 BY MR. EDWARDS:

3 Q. Do you see that?

4 A. I do.

5 Q. Does "Item" refer -- what does "Item" refer to
6 here?

7 A. Yes. That's what I was saying earlier.
8 It's -- you know, when I was going through this -- you
9 know, it's -- I don't recall. I don't recall at this
10 point. It's been a while, and it's hard for me to tell
11 you the technical definitions of what's what at this
12 point.

13 Q. Okay. But under "Item," the number listed is
14 245303 -- correct? -- for the Rexall Ointment that you
15 cite in your report?

16 A. Yes.

17 Q. And, again, the auditor noted that the SKU was
18 595303, correct?

19 MR. TAYLOR: Objection.

20 You can answer.

21 A. I'm referring to my report. Give me a minute.
22 I don't see where it says that, unless I'm -- I'll have
23 to go back to the exhibit. Give me a second here.

24 It appears like a "5" and then "95303" on your
25 UPC or SKU.

1 BY MR. EDWARDS:

2 Q. Okay. So that the product number that the
3 auditor identified, 595303, is different than the item
4 number that Dollar General identified, which is 245303,
5 correct?

6 MR. TAYLOR: Objection; form.

7 A. It's hard to tell. For me, I -- you know, at
8 this point, like I said, trying to reconcile the two
9 and -- it's hard for me to comment on that.

10 BY MR. EDWARDS:

11 Q. Well, you can comment on whether the numbers
12 are the same, right?

13 A. Yeah. I mean, the number 595303 is -- yeah.
14 I'm trying to go back to Exhibit 3.

15 Yeah, I see here on the screen that the
16 numbers are different.

17 Q. Okay. I'm going to mark the next exhibit.

18 (Exhibit No. 6 marked for identification.)

19 BY MR. EDWARDS:

20 Q. Let me know when you can see Exhibit 6,
21 please.

22 A. It's up on my screen.

23 Q. Okay. I'll represent to you that this is a
24 screenshot from the Dollar General website, and under
25 "Product Details," do you see where it says "Rexall

1 Bacitracin Antibiotic Ointment"?

2 A. I'm not able to scroll on the screen, so I
3 have to minimize. Give me a minute.

4 Available in store, Rexall -- brand
5 description Rexall. I see that. And I see the unit
6 size, yeah.

7 Q. Do you see that the product is for sale for
8 3.65?

9 A. I see it.

10 Q. And there's one in stock at 86 South Main
11 Street in Manchester, New York?

12 A. Yes.

13 Q. Okay. And the SKU number for this product is
14 "00" but then it's "595302," correct?

15 A. Correct.

16 Q. Is it possible that this is the item the
17 auditor was looking at and not the item reported in
18 DG_WOLF_40562, the spreadsheet?

19 MR. TAYLOR: Objection; form.

20 You can answer.

21 A. Hard to tell, for me. Like I said, I'll need
22 to do more to opine on that. It's -- I really can't
23 say.

24 BY MR. EDWARDS:

25 Q. The question was: Is it possible?

1 MR. TAYLOR: Same objection.

2 A. I would still say it's difficult to comment.

3 BY MR. EDWARDS:

4 Q. So you're not able to answer?

5 MR. TAYLOR: Same objection.

6 A. I -- it's hard for me to say.

7 BY MR. EDWARDS:

8 Q. Where the SKU for the product is noted in one
9 of the examples that you provide in your report for a --
10 an overpriced product in a New York inspection, what did
11 you do to confirm that the DG Data product data, matched
12 the SKU for the product identified by the auditor?

13 MR. TAYLOR: Objection; form.

14 You can answer.

15 A. I -- again, that's been -- it's been a while.
16 Hard for me to recall all the procedures and steps I
17 took, sitting here.

18 BY MR. EDWARDS:

19 Q. Did you do anything to confirm that the
20 product identified in these failed New York inspections
21 matched up with the data that you relied upon in the
22 Dollar General spreadsheet?

23 MR. TAYLOR: Objection; form.

24 You can answer.

25 A. There's a lot I did. I just -- you know,

1 sitting here, it's been a while. I just -- I don't
2 recall any details.

3 BY MR. EDWARDS:

4 Q. Okay. Let's go back to your report.

5 MR. TAYLOR: Hey, Adam, when you get to a
6 good stopping spot in the next five minutes or
7 so, maybe take another break.

8 MR. EDWARDS: Okay. Sure. I'll get through
9 this line, and we'll take a -- take another
10 break.

11 MR. TAYLOR: Okay.

12 BY MR. EDWARDS:

13 Q. I'm going to direct you to Page 3 of your
14 report.

15 A. Yes.

16 Q. Just a sec.

17 Actually, go to Page 4 of your report, the
18 bullet point at the very top, which refers to the item
19 Tums Chewy Bites 32-count. Do you see that?

20 A. I do.

21 Q. Okay. I'm going to read the beginning of this
22 from your report. This is your quote: "The item Tums
23 Chewy Bites 32-count was identified as being an
24 overcharge based on a March 1st, 2023, audit of a Dollar
25 General store in Rochester, New York. The auditor found

1 that the shelf price for this item was \$5 and that it
2 scanned for 5.75. However, when Dollar General pulled
3 the data for this item at the store, it showed that the
4 price was actually \$5."

5 Do you see that?

6 A. I do.

7 Q. Okay. I'm going to go ahead and mark
8 Exhibit 7.

9 (Exhibit No. 7 marked for identification.)

10 THE WITNESS: I see it.

11 BY MR. EDWARDS:

12 Q. Okay. If you'll go down to the last page of
13 the document -- it's Bates 0004554 -- under Item 3,
14 you'll see "Tums." Do you see that?

15 A. I do.

16 Q. Is this where you took the information from
17 that you included in your report to demonstrate what you
18 believe to be an error regarding the Tums Chewy Bites
19 32-count?

20 MR. TAYLOR: Objection; form.

21 You can answer.

22 A. I don't know if it was this specific report or
23 page. I don't recall.

24 BY MR. EDWARDS:

25 Q. Well, this was an audit -- if you go to the

1 first page of Exhibit 7, this was an audit from 3/1/23,
2 at the Dollar General store at 529 Monroe Avenue,
3 Rochester, New York, right?

4 A. Yes. That's what it reads.

5 Q. Right. And that's exactly what you cited in
6 your report, right?

7 A. March 1, 2023. I cite March 1, 2023, in my
8 report, yes.

9 Q. Right. At a Dollar General store in
10 Rochester, New York, correct?

11 A. Correct.

12 Q. So this appears to be the New York audit
13 report that you would have been reviewing to draft this
14 section of your report, right?

15 MR. TAYLOR: Objection; form.

16 You can answer.

17 A. Again, I -- you know, I don't know. There
18 could be multiple reports in the file folder. I
19 don't -- I don't -- it's hard for me to tell.

20 BY MR. EDWARDS:

21 Q. Well, it says the auditor found that the shelf
22 price for this item was \$5 and that it was scanned at
23 5.75, correct? That's what you state?

24 A. Right.

25 Q. And that's exactly what it says next to Line 3

1 of Bates No. 4554, next to the Tums product, correct?

2 A. That's what it says on my screen, yes.

3 Q. Okay. So it's likely this document is where
4 you pulled the information about this Tums product,
5 right?

6 MR. TAYLOR: Objection; form.

7 You can answer.

8 A. Yeah, again, that -- that part, it's hard for
9 me to comment, again, because I just -- I'll need more
10 time.

11 BY MR. EDWARDS:

12 Q. Mr. Sajnani, you've seen all of the
13 information that matches up between your report and this
14 exhibit that I've got in front of you here, right?

15 A. It does match, yes.

16 Q. Okay. I mean, do you think it's possible that
17 it's just a coincidence that everything matches?

18 MR. TAYLOR: Objection; form.

19 A. Hard to tell. Really hard to tell.

20 BY MR. EDWARDS:

21 Q. Okay. So with regard to the Tums Chewy Bites
22 error that you've identified at the top of Page 4 of
23 your report, in the bullet point, where did you get the
24 information which allowed you to make the statement the
25 items -- or the item Tums Chewy Bites 32-count was

1 identified as being an overcharge based on a March 1st,
2 2023, audit of a Dollar General store in Rochester,
3 New York?

4 A. Yeah, look, I don't recall at the time which
5 specific document I was referring to. It's been a
6 while, like I said, so I can't really pinpoint, you
7 know, which document that was in particular, what it
8 looked like. It's hard for me to recall that from
9 memory.

10 Q. Well, I'm actually showing you the March 1st,
11 2023, audit of the Dollar General store in Rochester,
12 New York, which mentions a Tums product. Isn't it
13 likely that Exhibit 7 is where you got the information
14 that you included in your report?

15 MR. TAYLOR: I'm going to object. I mean,
16 he mentions multiple documents in this bullet
17 point, Adam, and you keep referencing only one
18 document, and I don't think it's a fair question.
19 So objection; form.

20 You can answer.

21 A. Yeah, I will still say the same thing: It's,
22 you know -- just going back in time, it's hard for me
23 to -- to recall specifics.

24 BY MR. EDWARDS:

25 Q. So sitting here today, you're unable to tell

1 me where you got the information that you include in the
2 first bullet point of Page 4 of your report related to
3 the Tums Chewy Bites 32-count, correct?

4 MR. TAYLOR: Objection; form.

5 A. I don't -- I don't recall the specifics of the
6 documents and the specific columns I refer to or -- you
7 know, I don't recall, sitting here, the specifics of
8 what I looked at.

9 BY MR. EDWARDS:

10 Q. Let's go back to the Exhibit 3. That is the
11 large spreadsheet.

12 A. It's loading.

13 Q. And go down to Sort Order 1573, please. And
14 it will take us both a minute to get there.

15 A. I see it.

16 Q. I think your computer's faster than mine, so
17 bear with me.

18 A. In some cases, it seems like.

19 Q. My wheel's spinning, so I think we're getting
20 close.

21 Okay. 1573 identifies a Tums product. Do you
22 see that?

23 A. I do.

24 Q. And then if you scroll over to the SKU
25 description, it states "Tums Chewy Bites 32-count,"

1 correct?

2 A. Correct.

3 Q. And here Dollar General provides sales
4 information on this spreadsheet for Tums 32-count Chewy
5 Bites, right?

6 A. Which column is that?

7 Q. Well, lots of the columns have information
8 about pricing and --

9 A. Yes.

10 MR. TAYLOR: Well, your question, Adam, was
11 about sales. The list --

12 MR. EDWARDS: Okay.

13 MR. TAYLOR: -- (inaudible) here.

14 BY MR. EDWARDS:

15 Q. Okay. Do you see that there's pricing data
16 related to sales of Tums Chewy Bites 32-count here in
17 the spreadsheet, correct?

18 A. Correct.

19 Q. And that pricing information is what you rely
20 on to identify the error in your report, or what you
21 believe to be an error, correct?

22 MR. TAYLOR: Objection; form.

23 A. I don't -- again, I don't recall if this was a
24 specific column or the row I looked at at the time.

25 But, yes, this spreadsheet was involved in my review.

1 BY MR. EDWARDS:

2 Q. Okay. Well, what you say in your report is --
3 and I'm going back to that first bullet point, at the
4 top of Page 4. You state, "However, when Dollar General
5 pulled the data for this item at the store, it showed
6 that the price was actually \$5." Right?

7 A. Correct.

8 Q. Okay. And the auditor noted that the shelf
9 price for the item was \$5, correct?

10 A. Correct.

11 Q. And that's why you say the auditor made an
12 error, right?

13 MR. TAYLOR: Objection; form.

14 A. No, I don't think that's what it says here.
15 So the auditor found the shelf price to be 5, it scanned
16 at 5.75, and Dollar General's price showed 5. So -- and
17 maybe we're saying the same thing.

18 BY MR. EDWARDS:

19 Q. Okay. This bullet point was included in your
20 report to demonstrate that the auditor for this Tums
21 Chewy Bite 32-count product made an error when it
22 designated this to be an overcharge, correct?

23 MR. TAYLOR: Objection; form.

24 A. Yeah. Based on this bullet point, yes.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. But for this to be an error, you're
3 relying on Dollar General's data showing that the price
4 for this Tums Chewy Bite 32-count product was actually
5 \$5, right?

6 MR. TAYLOR: Objection; form.

7 A. It is Dollar General's data, yes. But what
8 I'm saying is I'm not sure if I can speak to this
9 specific row or column that we're looking at at this
10 point.

11 BY MR. EDWARDS:

12 Q. The New York inspector just noted "Tums" in
13 the exhibit that I've shared with you, though, correct?
14 He didn't say anything about 32-count Chewy Bites, did
15 he?

16 A. In the exhibit that you shared, which was, I
17 believe No. 5 -- is that right? Should I open it up?

18 Q. It's Exhibit 7.

19 A. Sorry. Let me just go back.

20 MR. TAYLOR: Adam, are we at a good stopping
21 point?

22 A. Tums --

23 MR. EDWARDS: As soon as I'm done with this
24 line, we'll take a break. It won't be more than
25 five minutes.

1 MR. TAYLOR: It's been 20 minutes.

2 THE WITNESS: Tums.

3 BY MR. EDWARDS:

4 Q. Okay. He lists Tums, not Tums 32-count Chewy
5 Bites, right?

6 A. Correct.

7 Q. And the inspector identified 11 digits of a
8 UPC code here in his audit report, correct?

9 A. Right.

10 Q. And that UPC code is 30766739287. Do you see
11 that?

12 A. I do.

13 Q. Do you have a pen with you?

14 A. I do not.

15 MR. EDWARDS: Trent, you might want to share
16 with him a pen.

17 MR. TAYLOR: Okay. For what purpose?

18 MR. EDWARDS: Well, I'm going to ask him
19 about this UPC, and I'm just thinking it would be
20 easier if he wrote it down as opposed to going
21 back and forth between exhibits. I'm just trying
22 to save time.

23 BY MR. EDWARDS:

24 Q. Did you write down the UPC code 30766739287?

25 A. I just did. Yes.

1 Q. Okay. Did you attempt to confirm whether this
2 32-count Tums Chewy Bites product DG identified actually
3 matched up with the UPC code the New York inspector
4 noted?

5 MR. TAYLOR: Objection; form. Objection;
6 assumes facts not in evidence.

7 You can answer.

8 A. Yeah, I'll say the same. I mean, I don't
9 recall the specific procedures I -- I followed at the
10 time.

11 BY MR. EDWARDS:

12 Q. For any of the ten examples of errors that you
13 identified in your -- in your report, did you confirm
14 that the D- -- the Dollar General product data provided
15 to you matched up with the product codes identified by
16 New York inspectors?

17 MR. TAYLOR: Objection; form.

18 A. I don't -- I don't recall the specific steps.

19 BY MR. EDWARDS:

20 Q. A UPC code is a universal code, correct?

21 MR. TAYLOR: Objection; form.

22 A. My understanding is yes.

23 BY MR. EDWARDS:

24 Q. Okay. That means that the code is specific to
25 a unique product, not the store who sells it, right?

1 MR. TAYLOR: Objection; assumes facts not in
2 evidence. Objection; form.

3 You can answer.

4 A. Yeah.

5 BY MR. EDWARDS:

6 Q. Sorry. Did you answer?

7 A. My understanding is yes.

8 Q. Okay.

9 MR. EDWARDS: We can take a five-minute
10 break now, Trent, if you'd like.

11 MR. TAYLOR: Okay. And I may make it --
12 let's go off the record first.

13 MR. EDWARDS: Okay.

14 THE VIDEOGRAPHER: This is the end of Media
15 Unit No. 3 (sic). We are off the record at
16 2:23 p.m.

17 (Recess from 2:23 p.m. to 2:40 p.m.)

18 THE VIDEOGRAPHER: This is the beginning of
19 Media Unit No. 3. We are on the record at
20 2:40 p.m.

21 BY MR. EDWARDS:

22 Q. All right. Mr. Sajnani, we just had a break.
23 I want to remind you that you're still under oath, with
24 penalty of perjury, just as if you were testifying live
25 in court today. Do you understand that?

1 A. I do.

2 Q. Okay. Did you get a cup of coffee over the
3 break?

4 A. I did not.

5 Q. Okay. Did you review any documents at all
6 over the break?

7 A. No, I did not.

8 Q. Okay. Did you have any conversations with
9 Mr. Taylor pertaining to anything related to this case?

10 A. No, I did not.

11 Q. Okay. Did you have any conversations with
12 anyone during the break?

13 A. The barista outside.

14 Q. Okay. But the barista wouldn't give you a cup
15 of coffee, or was that just for Mr. Taylor?

16 A. He was preparing it for Mr. Taylor.

17 Q. Okay. All right. We're back from the break,
18 and we're still talking about the first bullet point on
19 Page 4 of your report, where you describe an example of
20 what you believe to be an auditor error concerning Tums
21 Chewy Bites 32-count, correct?

22 A. Correct.

23 Q. And you wrote down the UPC code for the
24 product identified in the New York audit for the Tums
25 product, correct?

1 A. I wrote it, yeah, based on your instruction.
2 Yep.

3 Q. Okay. And what was that UPC code that the
4 New York auditor identified related to this Tums product
5 at issue?

6 A. 30766739287.

7 (Exhibit No. 8 marked for identification.)

8 BY MR. EDWARDS:

9 Q. Okay. I've marked the next exhibit as
10 Exhibit 8. Let me know when you can see it, please.

11 A. Not yet.

12 Q. Run a refresh for me, please.

13 A. I see it.

14 Q. Okay. I'll represent to you that this is a
15 screenshot taken from the Walmart website. And please
16 use your zoom function. If you zoom in on the picture,
17 at the top left, this appears to be a 32-count Tums
18 Chewy Bites product, correct?

19 MR. TAYLOR: I'm going to object.

20 A. It blurs it when you -- I'm trying to look at
21 the front sticker.

22 BY MR. EDWARDS:

23 Q. The count is a bit tough to see, isn't it?

24 A. Yeah.

25 Q. Can you and I agree, though, that this appears

1 to be a Tums Chewy Bite product?

2 A. I see "Tums," yes.

3 Q. And below the "Tums," it says "Chewy Bites"?

4 A. Correct.

5 Q. Okay. And then at the top, in the URL for
6 Walmart.com, it states, "Tums Chewy Bites Heartburn
7 Relief Chewable Antacid Tablets Berry 32 Count,"
8 correct?

9 A. Correct.

10 Q. And do you see the enlarged picture of the
11 back of the product where it has the scan lines?

12 A. I do.

13 Q. Okay. And below that scan line is the UPC
14 number for the product, right?

15 MR. TAYLOR: Objection; form.

16 A. I -- there is a number in between the scan
17 lines.

18 BY MR. EDWARDS:

19 Q. Okay. And that number is 07667491-80,
20 correct? Actually, "807" if you go beyond the line.

21 A. Yes, sir.

22 Q. Okay. Do you have any reason to believe that
23 that's not the UPC code?

24 MR. TAYLOR: Objection; form.

25 A. I don't know.

1 BY MR. EDWARDS:

2 Q. Okay. In all of your experience in working
3 with businesses and products, you haven't learned about
4 where to identify a UPC code on a product?

5 MR. TAYLOR: Objection; form.

6 A. Generally, in the vicinity it's in, yeah.

7 BY MR. EDWARDS:

8 Q. Okay. I'm going to mark Exhibit -- if you
9 would, write down that UPC code. We're going to come
10 back to that.

11 MR. TAYLOR: Which UPC code, Adam? I'm
12 sorry.

13 MR. EDWARDS: The one I just asked him about
14 on the Tums Chewy Bites product on Exhibit 8 from
15 Walmart.

16 THE WITNESS: Okay.

17 BY MR. EDWARDS:

18 Q. That's 07667491807, correct?

19 A. There's a "3" ahead of the "0766."

20 Q. Okay. On the left side. Fair enough.

21 I'm going to mark the next exhibit, which is
22 Exhibit 9.

23 (Exhibit No. 9 marked for identification.)

24 BY MR. EDWARDS:

25 Q. Tell me when you see it.

1 A. Okay.

2 Q. All right. And this, I'll represent to you,
3 is a screenshot taken on 4/17/2024, from the Dollar
4 General website, specifically for a store at 529 Monroe
5 Avenue. Do you see that at the top left?

6 A. I do.

7 Q. Okay. And the product here, it looks similar
8 to the Walmart product, right?

9 MR. TAYLOR: Objection; form.

10 A. It seems similar.

11 BY MR. EDWARDS:

12 Q. Okay. And the title is "Tums Assorted Berries
13 Chewy Bites 32 Count," right?

14 A. Yes.

15 Q. And the price of that product as of 4/17/24 is
16 6.35. Do you see that?

17 A. I see the price, and I see the date, yes.

18 Q. Okay. And it says that there's two in stock
19 at 529 Monroe Avenue, Rochester, New York, right?

20 A. Right.

21 Q. And then if you scroll to the very bottom of
22 the page, you'll see a line starting with "https." It's
23 got the Dollar General website. It's got the name of
24 the product: Tums Assorted Berries Chewy Bites. And
25 then it has a number there. Do you see that?

1 A. I do.

2 Q. Okay. Can you read that number into the
3 record, please.

4 A. 307667491807.

5 Q. Okay. That's the same code as we found on
6 the -- on the Walmart Tums Chewy Bites product, right?

7 A. Yes.

8 Q. And these products are both different than the
9 UPC code identified by the New York auditor for the Tums
10 product that you reference. In your report, the UPC
11 code again for that product was 30766739287, correct?

12 A. Correct.

13 Q. So I'm now going to mark Exhibit 10.

14 (Exhibit No. 10 marked for identification.)

15 BY MR. EDWARDS:

16 Q. Before we look at Exhibit 10, I just want to
17 make sure we're on the same page. The UPC code for the
18 two Tums Chewy Bite 32-count products that I've shown
19 you and that we've made exhibits in this case, it does
20 not line up with the UPC code identified for the Tums
21 product in the audit that you reference in your report,
22 correct?

23 A. The UPC written by the auditor on the report
24 does not match what we looked at on the website.

25 Q. Okay. Let me try this again. For some

1 reason, my sticker did not make its way to Exhibit 10.

2 MR. EDWARDS: Ms. Court Reporter, can you
3 handle that? I think if I go out of this and try
4 to reintroduce it, it'll make two exhibits.

5 THE COURT REPORTER: Yes. What I'll do is
6 upload it to the portal and then put a sticker on
7 it.

8 MR. EDWARDS: Okay.

9 BY MR. EDWARDS:

10 Q. So what I've identified as Exhibit 10 is
11 another screenshot from the DG, or Dollar General,
12 website from 4/17/24. Again, same store: 529 Monroe
13 Avenue, Rochester, New York. And this one, though,
14 appears to also be a Tums product, correct?

15 A. Yes.

16 Q. But it's a different product than the Tums
17 Chewy 32-count, correct?

18 A. It appears so.

19 Q. Okay. This is actually a 60-count Smoothies
20 product, right?

21 A. Yes, 60-count.

22 Q. Okay. And if you scroll down to the bottom,
23 again, look for the UPC code at the bottom of the page
24 after the URL for the Dollar General website and the
25 product description. Do you see that?

1 A. I do.

2 Q. Okay. And read the number, please, into the
3 record.

4 A. 307667392876.

5 Q. Okay. Other than the "6" at the end, which
6 differs from the "7," that lines up identically with the
7 UPC code identified by the auditor, doesn't it?

8 MR. TAYLOR: Objection; form.

9 A. The -- it seems like there's some digit
10 missing. The auditor report seems to be missing a
11 digit.

12 BY MR. EDWARDS:

13 Q. The "6" on the end, correct?

14 MR. TAYLOR: Objection; form.

15 A. Right.

16 BY MR. EDWARDS:

17 Q. But other than the "6" on the end, it's
18 identical, isn't it?

19 MR. TAYLOR: Objection; form.

20 A. It appears so.

21 BY MR. EDWARDS:

22 Q. Right. And as we've just seen from the --
23 from the Walmart exhibit, when you're actually looking
24 at the product, sometimes that last digit is outside the
25 bar code, to the right, isn't it?

1 MR. TAYLOR: Objection; form.

2 A. In the specific example we looked at, that was
3 the case.

4 BY MR. EDWARDS:

5 Q. Okay. Mr. Sajnani, is it possible that the
6 product that we've -- that we're looking at here in
7 Exhibit 10, the Tums Smoothy 60-count product, is the
8 actual product that the New York inspector was referring
9 to in his audit report?

10 MR. TAYLOR: Objection; form.

11 A. That's -- you know, without having done it
12 myself, it's -- it's a difficult one to for me to say
13 anything on. I think that's part of the challenge as I
14 was reviewing these reports. The -- and I think you
15 just pointed it out, that a lot of times I would run
16 into situations where the numbers or the information
17 either was incomplete or wouldn't match, which -- which
18 made it a little bit more challenging, significantly,
19 actually, which is why I can't sit here and, you know,
20 immediately help reconcile this for you.

21 The audit report we looked at, for example,
22 indicates Tums and Tums only, and, you know, that
23 requires additional steps, additional research.

24 BY MR. EDWARDS:

25 Q. Did you do that additional step or research,

1 like I've shown you here with some Internet research, to
2 verify the accuracy of your results in your report?

3 MR. TAYLOR: Objection; form.

4 A. At the time I was looking at the reports --
5 the audit reports, the Dollar General files, I mean, I
6 went through a variety of different method, steps. You
7 know, I can't walk you through particularly what they
8 were for each item I looked at.

9 But I think that the underlying challenge for
10 me was -- was sometimes the information was incomplete,
11 and I -- for me, it was difficult to understand why. So
12 it's -- it's -- you know, without -- without things
13 matching up, we auditors, you know, we're -- we always
14 look for things to match, and when data doesn't, it kind
15 of throws us in a -- you know, in a position where it's
16 hard to conclude or make a reliable -- you know, you
17 can't -- there's a concept of reliance, so that's --
18 that becomes difficult.

19 BY MR. EDWARDS:

20 Q. Describe for me what you did to confirm that
21 this 32-count Tums Chewy Bites product that Dollar
22 General provided pricing about in its spreadsheet and
23 which you rely upon in your report actually matched up
24 with the UPC code, the New York inspector noted.

25 MR. TAYLOR: Objection; form.

1 A. Yeah, I think that's what I keep saying, is
2 it's -- for me, it's difficult, first of all, to recall
3 that; and, second, I would also state that, you know,
4 if -- you know, not -- the UPCs not matching, to me,
5 it's less about sort of the underlying reasons --
6 right? -- why these are not matching or why the
7 description is not matching.

8 I think the underlying challenge for me is the
9 fact that they're not matching, and I've stated that in
10 the report. That's really what I walked away with --
11 right? -- and that's what -- that's why I concluded what
12 I concluded.

13 BY MR. EDWARDS:

14 Q. Sitting here today, can you state with
15 confidence that the DG data that you relied upon
16 relating to this Tums Chewy Bites 32-count product was,
17 in fact, the product that the auditor noted as an
18 overcharge in his inspection report?

19 MR. TAYLOR: Objection; form.

20 A. I think that's -- that's what I'm saying, is
21 the difficulty -- the underlying difficulty involved
22 when the numbers and descriptions don't match. It
23 becomes difficult to, you know -- to arrive at a
24 conclusion.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. I'm going to try again because I think
3 we're missing each other. I'm going to ask you a
4 yes-or-no question. Sitting here today, are you able to
5 confirm that the pricing information that Dollar General
6 provided concerning the Tums Chewy Bites 32-count
7 product matches up with the product the New York
8 inspector identified as an overcharge?

9 MR. TAYLOR: Objection; form.

10 BY MR. EDWARDS:

11 Q. Yes or no?

12 MR. TAYLOR: I'm going to object to the
13 instruction about "yes" or "no."

14 You can answer how you see fit.

15 A. Yeah, I would maintain it's -- you know, for
16 me, it's -- it's just difficult to say.

17 BY MR. EDWARDS:

18 Q. It's difficult to say "yes" or "no"?

19 MR. TAYLOR: Objection; form.

20 A. It's difficult for me to arrive at a
21 conclusion based on data sets that are either incomplete
22 or don't match.

23 BY MR. EDWARDS:

24 Q. Right. It's possible that the product that
25 the inspector actually picked up and looked at was this

1 Tums Smoothy product I've shown you, which has, but for
2 the last number, an identical UPC code, right?

3 MR. TAYLOR: Objection; form.

4 A. I don't know. It's hard to tell. Lots of
5 SKUs out there, and it's tough to tell.

6 BY MR. EDWARDS:

7 Q. So you can't provide me with an answer one way
8 or the other as to whether it's possible?

9 MR. TAYLOR: Objection; asked and answered.
10 Objection; form.

11 You can answer again.

12 A. Yeah, I just -- I'll maintain I -- I just
13 can't.

14 BY MR. EDWARDS:

15 Q. Okay. Let's go to the next exhibit.
16 Actually, before we do that, I wanted to follow up on
17 some testimony that you gave earlier. I think I asked
18 you about this, and I think your answer was that you
19 didn't know, but I'll try again.

20 Do you know how far back the pricing and sales
21 information goes back in this Dollar General spreadsheet
22 from the date of the failed audit?

23 MR. TAYLOR: Objection; form.

24 A. Sitting here, I cannot recall.

25 - o -

1 BY MR. EDWARDS:

2 Q. Okay. I will represent to you, and you can
3 assume hypothetically, that the -- the product pricing
4 and sales data that you rely upon for your report only
5 goes back 30 days from the date of the -- the -- New
6 York inspection, or audit. Okay? Are you with me?

7 A. Just repeat that one more time. I want to
8 make sure I'm aligned.

9 Q. Yeah. I'm representing to you and asking you
10 to assume that the product pricing and sales data in the
11 Dollar General spreadsheet you rely upon for your report
12 only goes back to 30 days from the date of the failed
13 audit.

14 MR. TAYLOR: Objection; form.

15 A. Okay.

16 BY MR. EDWARDS:

17 Q. Okay. My question is: Do you have any reason
18 to believe that data would be less reliable if it went
19 back more than 30 days? Ninety days, for example?

20 MR. TAYLOR: Objection; form.

21 A. I can't opine on that.

22 BY MR. EDWARDS:

23 Q. Okay. You don't have an opinion one way or
24 the other?

25 MR. TAYLOR: Objection; asked and answered.

1 You can answer again.

2 Objection; form.

3 You can answer.

4 A. I don't.

5 BY MR. EDWARDS:

6 Q. I'll try to ask it another way just to make
7 sure we're on the same page. Do you have any reason to
8 believe that the sales and pricing data contained in the
9 Dollar General spreadsheet you've relied upon would, in
10 fact, be less reliable if it went back 90 days instead
11 of 30?

12 MR. TAYLOR: Objection; asked and answered.

13 Objection; form.

14 You can answer.

15 A. I'll say the same: I don't think it impacts
16 the -- the conclusions or my opinion.

17 BY MR. EDWARDS:

18 Q. Okay. Please turn to -- let's see. I believe
19 it to be the first bullet point under Section A of your
20 report, which states, "Many of the county audits
21 contained erroneous information." It's on Page 3 of
22 your report.

23 A. Yes.

24 Q. It involves Old El Paso Grande Tortillas. Do
25 you see that?

1 A. Yes.

2 Q. I'm just going to read a quote from your
3 report: "The item Old El Paso Grande Tortilla was
4 identified as being an overcharge based on a March 10th,
5 2023, audit of a Dollar General store in North
6 Tonawanda, New York. The auditor found that the shelf
7 price for this item was 5.50 and that it scanned as
8 6.50. However, when Dollar General pulled the data for
9 this item at the store, it showed the price was actually
10 3.25."

11 Did I read that right?

12 A. Correct.

13 Q. So your example there is meant to point out, I
14 think -- and you tell me if I'm wrong -- that the
15 auditor got it wrong; although the auditor found people
16 were paying 6.50 for a product with a shelf price of
17 5.50, based on Dollar General's data, consumers were
18 actually paying 3.25, right?

19 MR. TAYLOR: Objection; form.

20 You can answer.

21 A. Yeah, I don't -- the auditor is not saying
22 that that's what people are paying. The auditor is
23 using a handheld scanner, and they're scanning the
24 items, and the scanner shows that it's 6.50. And for me
25 that's one of the other challenges, is that, you know,

1 the scanner, you know, as represented by some others who
2 have testified, it doesn't always match what's on the
3 point of sale.

4 So you -- we can't say that the consumers are
5 necessarily paying -- the auditor is saying that, you
6 know, on the shelf this was listed for 5.50, and it
7 scanned, when the auditor scanned it, for 6.50. And
8 what I'm saying is the Dollar General data shows a price
9 that's \$3.25.

10 BY MR. EDWARDS:

11 Q. Okay. But you're using this example, I think,
12 to point out that this particular audit contains
13 erroneous information, right?

14 MR. TAYLOR: Objection; form.

15 You can answer.

16 A. Correct.

17 BY MR. EDWARDS:

18 Q. And what erroneous information does the
19 audit -- the auditor set forth in his inspection report?

20 A. So I'll go back to what I said earlier.
21 The -- for me, when the numbers don't match -- right? --
22 we have a -- a number that's \$3.25 on one end, we have a
23 number that's 6.50 on one end, and we're saying -- the
24 auditor's saying that there's a shelf tag that's 5.50.

25 For me, I'm looking at this and saying, from a

1 methodology standpoint, can I rely on this? From a
2 procedural standpoint, can I rely on this? So it's -- I
3 don't know what's causing the error or where the error
4 is specifically, but, to me, when I look at a report
5 like that, you know, for me, that's -- that's erroneous.
6 That's not reliable.

7 Q. Okay. Can you point to anything that you
8 believe the auditor did wrong during the 3/10/23 North
9 Tonawanda, New York, store audit?

10 MR. TAYLOR: Objection; form.

11 You can answer.

12 A. The auditor really should have taken this item
13 from the shelf and -- and taken it to the point of sale,
14 the register, and rung it up, evidenced the receipt,
15 which is a requirement in the PPP, which are the audit
16 procedures within Handbook 130, which -- which is a
17 state law in New York -- right? -- that has been
18 followed.

19 Obtaining that receipt and retaining that
20 within the audit gives a reviewer, somebody who wants to
21 re-perform and get comfort and rely on the report, the
22 adequate confidence to be able to rely on that report,
23 especially when we know and it has been discussed at
24 length by many that -- and this is also from personal
25 experience, using -- my teams using scanners out in

1 stores -- the numbers don't always match because the
2 system that updates the scanners sometimes may be -- it
3 could be a technological lag. It could be a variety of
4 reasons. It doesn't match the POS, which just makes
5 this really, really challenging.

6 But having seen a receipt attached to the
7 report, for me, would have been -- would have been the
8 right way to do it, would have been more comforting.

9 BY MR. EDWARDS:

10 Q. Are you -- when -- when you say "take it up to
11 the register," are there not scanners at the register?

12 A. There are scanners, but they are different
13 types of scanners than what most of the auditors were
14 using to scan.

15 Q. How do you know that this auditor involved in
16 this old El Paso Grande Tortilla product didn't, in
17 fact, scan it at the register?

18 MR. TAYLOR: Objection; form.

19 You can answer.

20 A. Yeah, I'm going off of -- you know, there's
21 a -- the variety of testimony here, which I've
22 referenced throughout the report. Multiple individuals
23 have previously discussed the fact, predominantly the
24 auditors are using the HHT scanners.

25 And also in reviewing a variety of the

1 reports, there are actually comments in those reports,
2 and many -- some of those are referenced here and cited,
3 the auditor actually states in some form that
4 something -- don't quote me on this, but something along
5 the lines that the scanner was borrowed from the store
6 individual and then returned after the audit.

7 So, you know, I've seen that in work papers as
8 well.

9 BY MR. EDWARDS:

10 Q. So -- sorry. I wanted to make sure you were
11 done.

12 A. Yeah. Go ahead.

13 Q. You referred to a handheld scanner as a
14 particular type of scanner. Could you repeat what you
15 called it?

16 A. It's a HHT, is what -- is what Dollar General
17 refers to it.

18 Q. Okay. And the HHT scanner is something that
19 Dollar General uses to check pricing information?

20 MR. TAYLOR: Objection; form.

21 A. In reading prior testimony, my understanding
22 is those are the handheld scanners, yes.

23 BY MR. EDWARDS:

24 Q. Okay. But you believe that one shouldn't rely
25 on a handheld scanner to check prices for products on

1 the shelf? Is that your testimony?

2 MR. TAYLOR: Objection; form.

3 A. That's not what I'm saying. You know,
4 scanners can be used for a variety of purposes. But as
5 it pertains, again, to the reliability and the accuracy
6 and the integrity of the audit reports, you know, taking
7 it all the way to the point-of-sale system, getting a
8 receipt, and evidencing that, and including that in the
9 work papers, is the proper way of executing.

10 BY MR. EDWARDS:

11 Q. Mr. Sajnani, is it your opinion that if an
12 individual checks the price of a product in a Dollar
13 General store on the shelf with one of the Dollar
14 General HHT scanners, that the result would not be
15 reliable?

16 MR. TAYLOR: Objection; form. Objection;
17 assumes facts not in evidence.

18 You can answer.

19 A. Yeah, I'm not stating that. The mistakes --
20 mistakes happen -- right? -- in the retail environment.
21 This is -- it's quite prevalent. It happens -- it
22 happens quite a bit.

23 And, you know, one way to ensure that you are
24 getting the accurate price is to take it to the register
25 and get the receipt. That's -- that's a more reliable

1 indicator, specifically in this case where you have a
2 mismatch. When the HHT scanner is proven to always
3 match what the POS shows and what the receipts show and
4 there's appropriate amount of corroboration that's done,
5 reconciliation that's done, then a lot of times the
6 auditor may rely on the HHT scanner.

7 But in this case, after reading the
8 testimonies and understanding that this is a -- an area
9 where there have been reconciliation challenges, you
10 know, I would suggest one goes to the register and gets
11 a receipt.

12 BY MR. EDWARDS:

13 Q. How do you know from -- for your example here
14 that we're talking about, the bullet point about the Old
15 El Paso Tortilla, how do you know that the auditor
16 didn't, in fact, scan the product at the register?

17 MR. TAYLOR: Objection; form.

18 A. Again, this is -- this is based on what I've
19 seen, mostly, in the documentation and read in the
20 testimonies.

21 BY MR. EDWARDS:

22 Q. Testimony from who? Did anyone -- did any
23 testimony that you've read in this case discuss whether
24 this auditor on 3/10/23 actually went to the register?

25 A. Not specifically as it pertains to this

1 particular scanning transaction.

2 Q. Okay. So to as to this particular scanning
3 transaction on 3/10/23, the truth is you don't really
4 know where the auditor, the New York inspector, scanned
5 with a handheld scanner versus taking it to the
6 register, do you?

7 MR. TAYLOR: Objection; form.

8 A. For this particular transaction, you know, I
9 don't know. But, again, based on everything I've seen,
10 it's -- you know, it's likely.

11 BY MR. EDWARDS:

12 Q. Do you recall which deposition testimony you
13 reviewed which spoke to what type of scanning mechanism
14 New York auditors use?

15 A. Not off the top of my head. I'll have to go
16 through this. I've seen it in a few -- let's see. I
17 think Page 5 makes one reference towards the bottom.
18 There were a few -- I remember there were a few
19 instances of that.

20 And, again, I noted down a few. This is not a
21 comprehensive list. To my point earlier, anything I
22 found duplicative, I -- I did not feel the need to
23 include it and expand the report unnecessarily.

24 Q. Go ahead. And look at what I have marked --
25 or tried to mark -- ah -- what I've marked as -- shoot.

1 MR. EDWARDS: All right. Let's go off the
2 record for just a second.

3 THE VIDEOGRAPHER: We are off the record at
4 3:17 p.m.

5 (Recess from 3:17 p.m. to 3:28 p.m.)

6 THE VIDEOGRAPHER: We are back on the record
7 at 3:28 p.m.

8 (Exhibit No. 11 marked for identification.)

9 BY MR. EDWARDS:

10 Q. All right. Mr. Sajnani, I've marked the next
11 exhibit, Exhibit 11, which is an audit which took place
12 on 3/10/2023 at North Tonawanda. I believe this is the
13 audit that you reference here in your report concerning
14 the Tortillas.

15 A. I see it.

16 Q. Okay. And, again, the problem you pointed out
17 there is that the auditor found that the shelf price for
18 this item was 5.50 and that it scanned for 6.50. That's
19 what you related in your report, correct?

20 A. Correct.

21 Q. "However, Dollar General pulled the data for
22 this item, and it showed that the price was actually
23 3.25." That's what you state, correct?

24 A. Correct.

25 Q. So customers that bought this product, it

1 appears, would have been undercharged in your example,
2 correct?

3 MR. TAYLOR: Objection; form.

4 A. It appears so.

5 BY MR. EDWARDS:

6 Q. Okay. And the Bates number that you cite to
7 for your information about the 5.50 and 6.50, the 5.50
8 shelf price and the 6.50 scanned price, that's at Bates
9 0004527. So if you could scroll down to that page,
10 please.

11 A. Okay.

12 Okay.

13 Q. Is this, in fact, the page from the audit
14 report that contains the information you relied upon to
15 set forth this opinion that you provide in your report
16 about the Old El Paso Tortilla?

17 A. It appears so.

18 Q. But what this document actually says
19 concerning these tortillas is that the offered price was
20 two for 5.50 and that the actual or scanned price was
21 two for 6.50. Do you see that?

22 A. Yes.

23 Q. Okay. You didn't include that detail in your
24 report, right?

25 MR. TAYLOR: Objection; form.

1 A. Yeah. It must have been just an oversight.

2 BY MR. EDWARDS:

3 Q. Okay. So this pricing is for a two-count of
4 Old El Paso Restaurant-Style Tortillas, correct?

5 MR. TAYLOR: Objection; form.

6 A. It appears so, "two for," by that language.

7 BY MR. EDWARDS:

8 Q. Okay. And is it possible that the two here --
9 the "two for" indicates two for one, two for the price
10 of one?

11 MR. TAYLOR: Objection; form.

12 A. I don't understand.

13 BY MR. EDWARDS:

14 Q. Well, when I look at this audit and I see "two
15 for 5.50," I conclude that you can buy two of these
16 Tortilla products for 5.50. Do you agree that that's a
17 reasonable reading?

18 A. It's possible.

19 Q. Okay.

20 A. Two for 5.50.

21 Q. Let's go back to our large spreadsheet,
22 Exhibit 3, and go down to sort order 1476.

23 A. Exhibit 3?

24 Q. Yeah. The large Dollar General spreadsheet.
25 And it's Line 1476.

1 A. Okay.

2 Q. These are the lines that you relied upon in
3 your report. You cite to 40562. That's the large data
4 spreadsheet that we've marked as Exhibit 3, and you
5 specifically reference original sort order 1476, right?

6 A. Yes.

7 Q. And here, under the product name it states
8 "Old El Paso Restaurant Style Tortillas, 6-Count Two
9 For." Do you see that?

10 A. Yes.

11 Q. That kind of lines up with what the auditor
12 stated about two products for the price of one,
13 potentially, correct?

14 MR. TAYLOR: Objection; form.

15 A. Yes.

16 BY MR. EDWARDS:

17 Q. Okay. And if you scroll over to Columns M and
18 N, you will see a shelf retail price of 5.50 and a
19 point-of-sale retail price of 6.50, correct?

20 A. That's what it reads.

21 Q. Right. And POS retail, or point-of-sale
22 retail, means the price that it rings up at the
23 register, right?

24 MR. TAYLOR: Objection; form.

25 A. That is what I was saying earlier. I cannot

1 tell here without spending the adequate time and going
2 through the process I did when I looked at this in
3 depth.

4 BY MR. EDWARDS:

5 Q. Right. Sitting here today, you don't recall
6 what is meant by "POS retail"?

7 A. I don't.

8 Q. But you can see that there's a \$1 difference
9 between shelf retail and point-of-sale retail, right?

10 A. That's right.

11 Q. And that's consistent -- is that consistent
12 with what the auditor in New York found?

13 A. The auditor in New York found a \$1 difference
14 between the scanned price and what was on the shelf.

15 Q. But then when we go over to the Columns W and
16 X, default retail and retail at audit, the price is
17 3.25. Do you see that?

18 A. I see that.

19 Q. So according to the Dollar General data, what
20 did -- what were customers making purchases of this
21 product in the days leading up to the failed audit
22 actually paying for this product? Do you know?

23 MR. TAYLOR: Objection; form.

24 A. Again, sitting here, I don't. I can see what
25 it reads, but I -- to your question, I don't.

1 BY MR. EDWARDS:

2 Q. All right. If you scroll over to Line Z of
3 "Unit Retail," it says 3.25, correct?

4 A. Which row in particular?

5 Q. "Z."

6 A. Column Z shows blank until I get to a certain
7 row.

8 Q. Column Z, Row 45658.

9 A. 3.25.

10 Q. 3.25. Okay. And it says "Total Units: 1,"
11 right?

12 A. One.

13 Q. And then if you go down below that to the row
14 below that 45659, it states "Total Units: 2" and the
15 price is 6.50, correct?

16 A. Units, two, and if I stick to Column Z, I see
17 3.25, but if I then move to total sales, it's 6.50.

18 Q. Okay. 3.25 is 50 percent of 6.50, isn't it?

19 A. Correct.

20 Q. All right. So you would agree that if there
21 was a two-for-one or 50 percent promotion running on
22 March 10th, 2023, on this tortilla product scanned at a
23 regular price of 6.50 at the register, the resulting
24 discounted price would be 3.25, right?

25 MR. TAYLOR: Objection; form. Objection;

1 misstates the testimony.

2 You can answer.

3 A. Yeah, I don't know if I'm -- are you asking me
4 to follow a hypothetical?

5 BY MR. EDWARDS:

6 Q. Sure. Yeah. Would you agree that if there
7 was a 50 percent promotion running on March 10th, 2023,
8 at this store, and the Old El Paso Tortilla scanned at a
9 regular price of 6.50 at the register, the resulting
10 50 percent-discounted price would be 3.25?

11 MR. TAYLOR: Objection; form. Objection;
12 misstates testimony.

13 A. If this was selling -- like, I suppose.

14 BY MR. EDWARDS:

15 Q. Okay. So would you agree that if there was a
16 50 percent promotion running on March 10th, 2023, and
17 the shelf price of the Old El Paso Tortillas was 5.50, a
18 customer would expect the price of the item scanned at
19 the register of a 5.50 product to have a resulting
20 50 percent-discounted price of 2.75?

21 A. I mean, it's difficult for me to comment on
22 what the customer would expect. I think there are a lot
23 of variables there, and --

24 Q. I'll try to make it simpler for you. If a
25 product has a regular price of 5.50 at the register, and

1 it's 50 percent off, the resulting price would be 2.75,
2 right?

3 A. Yes.

4 Q. Okay. Do you know whether the 3.25 -- let me
5 ask the question this way: Sitting here today, do you
6 know whether the 3.25 unit retail price that you relied
7 upon in the Dollar General data was for one product or
8 two?

9 A. I don't recall what I did at the time.

10 Q. Well, I mean, you've got the spreadsheet in
11 front of you. Feel free to look at it. I'm not trying
12 to make this a memory test. Look at the Dollar General
13 data that I've just pointed out to you with the column
14 and row.

15 Do you have an opinion, sitting here today, as
16 to whether the 3.25 price in Row Z is for one product or
17 two?

18 MR. TAYLOR: Wait a second. I'm going to
19 object to the characterization as this
20 spreadsheet being DG Data, because, as you know,
21 Adam, at least half of it came from plaintiffs'
22 counsel. So I want to put this on the record.

23 And objection; form.

24 You can answer.

25 A. I still would -- I mean, I see what I see in

1 front of me. I would still, I think, go back to my
2 opinion as written in this report, which is -- which is
3 representative of what -- what I did and the procedures
4 that I went through.

5 BY MR. EDWARDS:

6 Q. Sure. You're stating with certainty that
7 customers that bought one bag -- I'm sorry -- two bags
8 of tortillas at this Dollar General store on this date
9 actually paid 3.25?

10 MR. TAYLOR: Objection; form.

11 BY MR. EDWARDS:

12 Q. Is that your testimony?

13 A. I don't think that's what my report is saying.

14 Q. Your report states, "When Dollar General
15 pulled the data for this item at the store, it showed
16 that the price was actually 3.25," correct?

17 A. That's what the report states. Correct.

18 Q. Right. And from the Dollar General data and
19 the audit report, we confirmed that this was a two-for
20 product, correct?

21 MR. TAYLOR: Objection to form.

22 A. Yeah, that -- I don't know if I can
23 necessarily conclude that sitting here.

24 BY MR. EDWARDS:

25 Q. Well, you can conclude that that's what the

1 spreadsheet says, right? It says "Old El Paso
2 Restaurant Style Tortillas 6-Count (Two For)," right?

3 A. I see that on the spreadsheet, yes.

4 Q. Okay. And that's very similar to what the
5 audit report you relied on says, right?

6 MR. TAYLOR: Objection; form.

7 A. Let me go back. It did indicate two-for.

8 BY MR. EDWARDS:

9 Q. Okay. Let's turn to Page 4 of your report.
10 It is bullet point three, involving an audit which took
11 place on March 24th, 2023. Do you see that?

12 A. I do.

13 Q. There you state, "On March 24th, 2023, an
14 auditor inspected a Dollar General store in Queensbury,
15 New York. In doing so, he noted that Skintimate shaving
16 gel this that store had a shelf price of 3.65 but had a
17 register price of 4.25. See DG_WOLF_42" -- "4243.
18 However, Dollar General pulled what the register price
19 was for that item during that time frame, and it was
20 listed at 3.65."

21 Did I read that right?

22 A. Correct.

23 Q. So this is another example that you provide as
24 an error that an auditor made, correct?

25 A. Correct.

1 Q. All right.

2 (Exhibit No. 12 marked for identification.)

3 BY MR. EDWARDS:

4 Q. I'll go ahead and mark Exhibit 12. And this
5 appears to be a price verification summary report or
6 audit report for Queensbury, New York, correct?

7 A. I'm opening. Price verification, summary
8 report. I don't see the jurisdiction. Give me a
9 second.

10 Queensbury, New York.

11 Q. At the very top --

12 A. Yeah.

13 Q. -- it says "61 Main Street, Queensbury,
14 New York," correct?

15 A. I saw it. Yep.

16 Q. Okay. Note the date on the front of this
17 inspection report. Do you see that?

18 A. Under "Title," yes, 4 -- 4/20/23. I see it.

19 Q. On the first page, read the date when this --
20 when this audit took place, this New York inspection.

21 A. April 24, 2023.

22 Q. Okay. But in your report you note that the
23 inspection took place on March 24th, 2023, correct?

24 A. I did state that.

25 Q. Okay. So you got -- you got the date wrong

1 there, correct?

2 MR. TAYLOR: Objection; form.

3 A. I think there's another audit report. If not,
4 yeah, I think it's just a typo done on my part.

5 BY MR. EDWARDS:

6 Q. Okay. Because in your report you specifically
7 reference 0004243 as the basis for your statements in
8 your report about the Skintimate shaving gel, and then,
9 as you can see, if you go to the bottom of Exhibit 12,
10 to Page 0004243, the page number you reference, if you
11 look at Line 48, there's the reference to the Skintimate
12 shaving gel, right?

13 A. Yes. Line 48, is that what you're looking at?

14 Q. Yes. And Line 48 contains the same pricing
15 information that you note in your report involving the
16 Skintimate shaving gel, that the shelf price for the
17 product was 3.65, and that the charged price was 4.25,
18 correct?

19 MR. TAYLOR: I'm going to object to form.

20 And, Adam, I'm going to object as well
21 because Exhibit 3, which plaintiffs' counsel put
22 in, has the violation date as March 24th, 2023.

23 MR. EDWARDS: I'm sorry. Was that a form
24 objection? It sounded like you're just
25 testifying there, Trent.

1 MR. TAYLOR: Well, I think you're
2 misrepresenting the record, and so I'm trying to
3 set the record straight.

4 MR. EDWARDS: It's kind of the witness' job
5 to do that, but okay.

6 BY MR. EDWARDS:

7 Q. I think the question was -- I'm just trying to
8 verify that this -- this document that you're citing to
9 in your report, ending in Bates 0004243, which
10 references the Skintimate shaving gel and the same
11 prices in your report, this is the document you were
12 relying on when you set forth your opinions here in the
13 report.

14 MR. TAYLOR: Objection; form.

15 A. I see the pricing. I see what you're
16 referring to. It appears so.

17 BY MR. EDWARDS:

18 Q. Okay. So to address Mr. Taylor's comments,
19 we'll go back to the Dollar General data spreadsheet,
20 which we've marked as Exhibit 3.

21 MR. TAYLOR: And I'm going to object to the
22 characterization as "the Dollar General data
23 spreadsheet" because, as I mentioned before, some
24 of this is Dollar General data; some of it is
25 plaintiffs' counsel data.

1 BY MR. EDWARDS:

2 Q. Mr. Sajnani, is it your understanding that
3 Dollar General provided the pricing and sales
4 information that -- encompassed in this spreadsheet that
5 you relied upon?

6 MR. TAYLOR: Objection; form.

7 A. I don't remember the -- the specific
8 discussion at the time.

9 BY MR. EDWARDS:

10 Q. So as to Exhibit 3, the spreadsheet we've been
11 talking about throughout this deposition, which is
12 marked as Bates DG_WOLF_40562, are you aware of whether
13 Dollar General provided the product information as to
14 pricing and sales for this spreadsheet?

15 MR. TAYLOR: Objection; form.

16 A. From -- from my recollection, I don't know
17 which specific tabs or columns or rows, but I do
18 remember -- I do recall something along the lines where
19 some of this data has been compiled.

20 This spreadsheet, if I recall correctly, has
21 exchanged some hands, and it's gone back and forth now.
22 Who provided what data, the specifics -- I remember
23 discussing it -- I just don't recall at this point.

24 BY MR. EDWARDS:

25 Q. Okay. Are you confused in any way when I call

1 this "the Dollar General spreadsheet"? Do you know that
2 I'm referring to DG_WOLF_40562, Exhibit 3?

3 A. Yes. If we do, yeah, "Exhibit 3," I think,
4 will be more specific.

5 BY MR. EDWARDS:

6 Q. Okay. I'll just call it "Exhibit 3."

7 On Exhibit 3, let's go to sort number -- start
8 with 912.

9 A. Okay.

10 Q. Boy. Your computer is fast.

11 A. I think only when we're looking at this
12 exhibit. The rest of them are taking time to load.

13 Q. All right. Do you see at 912 there's multiple
14 references to Skintimate shave gel, correct?

15 A. Yes. Correct.

16 Q. Do you see the date of the audit violation? I
17 believe it's Column J? Column J reads "Violation Date."

18 A. I see it.

19 Q. What is the violation date?

20 A. March 24, 2023.

21 Q. Okay. So did you pull your information in
22 your report from the spreadsheet when you stated
23 March 24th, 2023, as being the date of the failed audit
24 for the Skintimate shaving gel?

25 MR. TAYLOR: Objection; form.

1 A. I don't know where I pulled it from
2 specifically.

3 BY MR. EDWARDS:

4 Q. Well, I'm reading your report, and I see "On
5 March 24th, 2023, an auditor inspected a Dollar General
6 store in Queensbury, New York. In doing so, he noted
7 that the Skintimate shaving gel in the store had a shelf
8 price of 3.65 but had a register price of 4.25," and
9 then you cite to 0004243, the spreadsheet that we're
10 looking at, right?

11 A. That's right.

12 Q. So I can take that to mean that you got the
13 date from this spreadsheet, right?

14 MR. TAYLOR: Objection; form.

15 A. Hard to tell. Maybe -- I don't know if it was
16 an error on my part on the date or just mixing up the
17 references. It's hard to tell.

18 BY MR. EDWARDS:

19 Q. Right. But we know that the actual audit for
20 the Skintimate shaving gel product took place on
21 4/24/23, a month after the date you set forth in your
22 report, and contained in the spreadsheet 40562, correct?

23 MR. TAYLOR: Objection; form.

24 Mischaracterizes his testimony and assumes facts
25 not in evidence.

1 You can answer.

2 A. Based on the PDF file we looked at, that PDF
3 file had a April date on it, yes.

4 BY MR. EDWARDS:

5 Q. The actual date of the audit as reflected by
6 the inspector that performed the audit was 4/24/23,
7 correct?

8 A. That's right.

9 Q. So do we actually know what the price of this
10 item was on 4/24/23?

11 MR. TAYLOR: Objection; form.

12 BY MR. EDWARDS:

13 Q. That being the Skintimate shave gel that was
14 cited as an overcharge by the auditor.

15 A. I can't tell based on what I'm looking at.

16 Q. Okay. That information isn't provided in the
17 spreadsheet 40562, is it, Exhibit 3?

18 MR. TAYLOR: Objection; asked and answered.

19 Objection; form.

20 You can answer.

21 A. Yeah, I'm not saying it's not. It's "maybe."
22 It's just -- maybe it is. I just can't -- I can't
23 decipher at this moment without, you know, just taking a
24 step back and examining further.

25 - o -

1 BY MR. EDWARDS:

2 Q. Would you agree that given -- in this specific
3 example, given that the -- the data you relied upon and
4 included in your report contained in 40562 lists an
5 audit date which is 30 days before the actual audit date
6 for this product, we can't conclude that the auditor
7 committed an error, can we?

8 MR. TAYLOR: Objection; form.

9 A. Yeah, that's -- you know, I think a lot --
10 there's a lot of detail, and sitting here, again, I --
11 doing this on the spot, it's hard for me to say one way
12 or another.

13 You know, I had more time and -- when I was
14 preparing this report and when I was doing this test, so
15 I'll just defer to whatever I have written in my report.

16 THE VIDEOGRAPHER: Mr. Edwards --

17 MR. EDWARDS: Yes.

18 THE VIDEOGRAPHER: -- this is the
19 videographer. We've been going for a little more
20 than an hour on this media unit. Can we take a
21 quick break --

22 MR. EDWARDS: Sure.

23 THE VIDEOGRAPHER: -- to change it?

24 MR. EDWARDS: Sure. Five-minute break to
25 change the media. That's good.

1 THE VIDEOGRAPHER: This is the end of Media
2 Unit No. 3. We are off the record at 4:03 p.m.

3 (Recess from 4:03 p.m. to 4:12 p.m.)

4 THE VIDEOGRAPHER: This is the beginning of
5 Media Unit No. 4. We are on the record at
6 4:12 p.m.

7 BY MR. EDWARDS:

8 Q. All right. Mr. Sajnani, I just want to follow
9 up a bit on the -- the questioning I had earlier related
10 to the first bullet point on Page 3 of your report
11 related to the Old El Paso Tortillas.

12 A. Yes.

13 Q. So if you want to go there in your report.

14 A. Yes.

15 Q. Just to refresh your recollection, the problem
16 you pointed out there was that the auditor found a shelf
17 price of 5.50, and, upon scanning the tortilla product,
18 it scanned for 6.50. Do you see that?

19 A. Yes.

20 Q. Okay. But the issue that you have with that
21 conclusion is based on Dollar General data contained in
22 40562 of the spreadsheet, which indicates that there
23 were -- the actual sales of those -- of the product
24 referenced were for 3.25, correct?

25 MR. TAYLOR: Objection; form.

1 You can answer.

2 A. Yeah, I would say based on the -- based on
3 Exhibit 3, and the data that's in there, you know, it
4 appears -- it appears so. But, like I said, going --
5 going back, you know, I don't know necessarily the
6 specific process I undertook.

7 But, you know, seeing as the citations and
8 references are here, my, I think, underlying -- what I'm
9 raising an exception to is, really, the data --
10 right? -- that's not matching at the end of the day.

11 BY MR. EDWARDS:

12 Q. Understood.

13 A. Yeah.

14 Q. Can you go back to original sort order 1476,
15 which references the product name "Old El Paso
16 Restaurant Style Tortillas, 6-Count" and then
17 "(two-for)"?

18 A. Do you want me to sort within Exhibit 3 to
19 1476? Is that what you're asking me to do?

20 Q. Yeah. I'd like you to go down to 1476 so we
21 can -- so I can ask you a question about that.

22 A. Okay. One second.

23 My spreadsheet is stuck. I left it open. Let
24 me refresh it.

25 Okay. I'm there.

1 Q. So go ahead and put your cursor on the first
2 entry for 1476. I believe it's at Line 45653.

3 A. Okay.

4 Q. Are you there? Now, scroll all the way over
5 to the right.

6 A. Okay.

7 Q. Okay. And if we look a few rows down from
8 that, we will see some transaction IDs, some unit
9 retail, some total units, and some total sales that took
10 place for this product on specific dates. Do you see
11 that?

12 A. I see the data in those -- in those rows.

13 Q. Okay. All right. So for this tortilla
14 product, there's an entry for total units. This says
15 "1." Do you see that?

16 A. Yes. I see "1" for Row 45658.

17 Q. And then next to that is a sales price of
18 \$3.25, correct?

19 A. Yes.

20 Q. For total sales?

21 A. Total sales. Yes.

22 Q. Okay. Right below that is another entry, but
23 this is for a total unit of two. Do you see that?

24 A. I do.

25 Q. Okay. And what is the total sales listed for

1 that one?

2 A. \$6.50.

3 Q. Okay. And \$6.50 is the scanned price noted in
4 the audit report by the New York inspector, isn't it?

5 MR. TAYLOR: Objection; form.

6 You can answer.

7 A. Yeah. Specific to, yeah, Document No. 4257,
8 yes, the item scanned for 6.50.

9 BY MR. EDWARDS:

10 Q. Do you intend at some point to do a thorough
11 review of all of the government audit data and compare
12 it to the DG spreadsheet to confirm accuracy?

13 MR. TAYLOR: Objection; form.

14 A. From here on out, I -- I don't anticipate.

15 BY MR. EDWARDS:

16 Q. Has Dollar General shared with you any
17 information about litigation outside of New York
18 involving pricing inaccuracies or overcharges?

19 MR. TAYLOR: Objection; form.

20 You can answer.

21 A. Repeat that one more time.

22 BY MR. EDWARDS:

23 Q. Yeah. And I'll rephrase it. Are you aware of
24 any litigation outside of New York, this case that we're
25 here about today, involving Dollar General overcharges?

1 MR. TAYLOR: Objection; form.

2 You can answer.

3 A. I think I said this earlier. Regarding --
4 you're specifying -- you're saying outside of this case?

5 BY MR. EDWARDS:

6 Q. Correct.

7 A. Yeah, I think I mentioned earlier I -- I have
8 some confidentiality-type agreements I'm bound by, and,
9 you know, I really can't get into that.

10 Q. Yeah. Understood. I'm not -- I'm not really
11 asking you to get into the details of any other matters
12 that you're working on. I'm simply asking you if you're
13 aware of any other litigation involving Dollar General
14 other than this New York case that we're here about
15 today.

16 MR. TAYLOR: Objection; form.

17 You can answer.

18 A. You know, at a high level, I'll say, you know,
19 I am, but I'll -- I could probably -- you know, I can't
20 go any further than that.

21 BY MR. EDWARDS:

22 Q. Okay. Have you been retained by Dollar
23 General in any other matters other than this New York
24 litigation we're here about today?

25 MR. TAYLOR: I'm going to object to that as

1 getting into privileged confidentiality issues
2 pursuant to the federal rules. And I don't think
3 that's an appropriate question, Adam.

4 MR. EDWARDS: Are you instructing him not to
5 answer?

6 MR. TAYLOR: Yes, I am.

7 BY MR. EDWARDS:

8 Q. Okay. Are you going to follow your attorney's
9 advice and refuse to answer the question of whether you
10 have been retained by Dollar General in any matters
11 other than -- involving pricing of Dollar General stores
12 other than the matter that we're here about today?

13 MR. TAYLOR: Objection; form.

14 You can answer.

15 A. Yeah, I think I'll -- I'll maintain what I've
16 said. I think beyond what I've shared, I really can't
17 get into any other details.

18 BY MR. EDWARDS:

19 Q. Because you believe you're bound by
20 confidentiality issues?

21 MR. TAYLOR: Objection; form.

22 A. I am.

23 BY MR. EDWARDS:

24 Q. Okay.

25 MR. EDWARDS: All right. Guys, give me just

1 a few minutes to check my notes, and I'll wrap it
2 up. Okay? I'll be back in five.

3 MR. TAYLOR: Okay.

4 THE WITNESS: Okay.

5 THE VIDEOGRAPHER: Mr. Edwards, do you want
6 to go off the record?

7 MR. EDWARDS: Yes.

8 THE VIDEOGRAPHER: Okay. We are off the
9 record at 4:22 p.m.

10 (Recess from 4:22 p.m. to 4:29 p.m.)

11 THE VIDEOGRAPHER: We are back on the record
12 at 4:29 p.m.

13 BY MR. EDWARDS:

14 Q. All right. Mr. Sajnani, I assume that you
15 don't have any opinions in this case about the
16 appropriate methods for calculating classified damages?
17 That's kind of outside your area, right?

18 MR. TAYLOR: Objection; form.

19 You can answer.

20 A. It is -- it is outside my area.

21 MR. EDWARDS: Okay. Given that, I -- I
22 don't have any more questions.

23 MR. TAYLOR: Okay. We don't have any
24 questions, either. So thank you.

25 MR. EDWARDS: All right.

1 THE WITNESS: Thank you.

2 MR. EDWARDS: Go off record.

3 THE VIDEOGRAPHER: Yes. Stand by.

4 This is the end of Media Unit No. 4. We are
5 off the record at 4:29 p.m., and this concludes
6 today's testimony given by Sunil Sajnani.

7 THE COURT REPORTER: Mr. Taylor, read or
8 waive?

9 MR. TAYLOR: We'll read.

10 THE COURT REPORTER: Mr. Edwards, will you
11 be ordering at this time?

12 MR. EDWARDS: Yes.

13 THE COURT REPORTER: And, Mr. Taylor, would
14 you like a copy?

15 MR. TAYLOR: We will order a transcript, but
16 not the video at this point.

17 MR. EDWARDS: Same for me. Do not need a
18 video just yet.

19 THE VIDEOGRAPHER: Thank you very much.

20 (The deposition concluded at 4:29 p.m.
21 Reading and signing were not waived.)

22 * * * * *

23

24

25

CERTIFICATE OF OATH OF WITNESS

STATE OF FLORIDA)

COUNTY OF SARASOTA)

I, LAURA S. EDER, Registered Merit Reporter, Notary Public in and for the State of Florida at Large, do hereby certify that the witness, SUNIL SAJNANI, remotely appeared before me on April 19, 2024, and was duly sworn by me.

WITNESS my hand and official seal this 30th day of April, 2024.



LAURA S. EDER, RMR

Notary Public

State of Florida at Large

Commission Number: HH 357195

Commission Expires: 4/26/2027

Personally known: No

Produced identification: Yes

Identification produced: Michigan driver's license

REPORTER'S DEPOSITION CERTIFICATE

I, LAURA S. EDER, Registered Merit Reporter, do hereby certify that I was authorized to and did stenographically report the foregoing deposition of SUNIL SAJNANI, the witness herein on April 19, 2024; that a review of the transcript was requested; and that the foregoing transcript, pages 4 through 133, is a true and complete record of my stenographic notes.

I FURTHER certify that I am not a relative, employee, attorney, our counsel of any of the parties, nor am I a relative or employee of any of the parties' attorney or counsel connected with the action, nor am I financially interested in the action.

DATED this 30th day of April, 2024.



LAURA S. EDER, RMR

1 R. Trent Taylor, Esq.
McGuire Woods
2 Gateway Plaza
800 East Canal Street
3 Richmond, Virginia 23219
rtaylor@mcguirewoods.com

4
5 April 30, 2024
6

7 RE: : JOSEPH WOLF ET AL. v. DOLLAR GENERAL
CORPORATION ET AL.
8 DEPO OF: SUNIL SAJNANI
TAKEN : April 19, 2024
9

10 The above-referenced transcript is available for
review.
11

The witness should read the testimony to verify its
12 accuracy. If there are any changes, the witness should
note those with the reason on the attached Errata Sheet.
13

The witness should, please, date and sign the
14 Errata Sheet and email to the deposing attorney as well
as to Veritext at Transcripts-fl@veritext.com, and
15 copies will be emailed to all ordering parties.

16 It is suggested that the completed errata be
returned 30 days from receipt of the testimony, as
17 considered reasonable under Federal rules*; however,
there is no Florida statute to this regard.
18

If the witness fails to do so, the transcript may
19 be used as if signed.
20

21 Yours,
22 Veritext Legal Solutions
23

*Federal Civil Procedure Rule 30(e)/Florida Civil
24 Procedure Rule 1.310(e).
25

1 RE: : JOSEPH WOLF ET AL. v. DOLLAR GENERAL
CORPORATION ET AL.

2 DEPO OF: SUNIL SAJNANI

TAKEN : April 19, 2024

3 JOB NO.: 6645553

4 PAGE ____ LINE ____ CHANGE ____

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6 REASON _____

7 PAGE ____ LINE ____ CHANGE ____

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9 REASON _____

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12 REASON _____

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15 REASON _____

16 PAGE ____ LINE ____ CHANGE ____

17 _____

18 REASON _____

19 _____

20 Under penalties of perjury, I declare that I have read
the foregoing document and that the facts stated in are
21 true.

22 _____

23 _____

24 SUNIL SAJNANI

DATE

25 _____

[00 - 3.25]

Page 138

0	10 3:11,23 39:23 46:11 90:13,14 90:16 91:1,10 93:7 101 2:8 108 3:24 10th 100:4 113:22 114:7,16 11 3:24 82:7 108:8,11 1100 2:4 118 3:25 12 3:25 15:7,16 15:22 118:2,4 119:9 12:00 10:21 12:01 1:21 4:3 12:10 10:8,9 12:13 10:9,11 12:50 35:20,21 130 2:8 102:16 133 135:7 134 3:4 135 3:5 136 3:6 137 3:7 1476 110:22,25 111:5 127:14,19 127:20 128:2 1520 2:8 1573 78:13,21 18th 64:10 19 1:20 134:8 135:5 136:8 137:2	19th 4:4 10:20 65:3,5 1:01 35:21,24 1st 73:24 77:1 77:10 2 2 3:12 12:16 21:7,8,22 22:8,9 22:11 35:23 37:19 39:12 51:18 54:8 66:7 113:14 2.75 114:20 115:1 20 23:4 24:11 82:1 2020 30:22 58:10,18 2022 65:5 2023 73:24 75:7 75:7 77:2,11 100:5 113:22 114:7,16 117:11 117:13 118:21 118:23 119:22 122:20,23 123:5 2024 1:20 4:4 64:10,15 134:8 134:11 135:5,14 136:5,8 137:2 21 3:12 23219 2:15 136:3 24 118:21 122:20	245 68:21 245303 69:1,14 70:4 24th 117:11,13 118:23 119:22 122:23 123:5 2:23 84:16,17 2:40 84:17,20 3 3 3:13 21:25 39:12 41:4,23 42:11 43:1,11 47:17 49:25 50:14 51:16,19 53:6,7,18 56:19 56:25 61:13 62:7 63:5,25 65:12,19 67:8 70:14 73:13 74:13 75:25 78:10 84:15,19 88:19 99:21 110:22,23 111:4 119:21 120:20 121:10 122:2,3 122:6,7 124:17 126:2,10 127:3 127:18 3.25 65:8 100:18 101:22 113:3,17 113:18,24 114:10 115:4,6 115:16 116:9,16 126:24 128:18
00 71:14 00040563 56:14 0004136 3:16 66:1 0004137 3:16 66:5 0004243 119:7 119:10 120:9 123:9 0004527 109:9 0004552 3:19 0004554 3:19 74:13 0040563 3:14 00558 1:3 4:10 00596901 68:8 0766 88:19 07667491-80 87:19 07667491807 88:18 08902 2:8	1		
1 3:11 4:4 9:23 10:12,17 12:15 17:13 21:13,20 35:20 42:24 46:11 54:8 75:7 75:7 112:8,13 113:10 128:15 128:16 1,200 31:1 1.310 136:24			

[3.25. - 7]

Page 139

3.25. 100:10 101:9 108:23 112:17 113:9,10 3.45. 65:8 66:18 3.65 71:8 117:16 119:17 123:8 3.65. 117:20 3/1/23 75:1 3/10/2023 108:12 3/10/23 102:8 106:24 107:3 30 57:10,15 58:12,20 59:4 65:17 98:5,12 98:19 99:11 125:5 136:5,16 136:23 30649 134:14 135:17 30766739287 82:10,24 86:6 90:11 307667392876 92:4 307667491807 90:4 30th 58:10 134:10 135:14 32 3:21 73:19,23 74:19 76:25 78:3,25 79:4,16 80:21 81:4,14 82:4 83:2 85:21 86:17 87:7	89:13 90:18 91:17 94:21 95:16 96:6 357195 134:16 37929 2:4 3:17 108:4,5 3:28 108:5,7	42 117:17 4243 117:17 4257 129:7 4554 76:1 45653 128:2 45658 113:8 128:16 45659 113:14 48 119:11,13,14 4:03 126:2,3 4:12 126:3,6 4:22 132:9,10 4:29 1:21 132:10,12 133:5 133:20	115:1 529 75:2 89:4,19 91:12 53 3:13 56 3:14 595302 71:14 595303 67:6,7 67:19 69:18 70:3,13
	4		6
	4 3:14 22:2,16 22:23 37:9 56:5 56:6,10,13 64:24 73:17 76:22 78:2 80:4 85:19 117:9 118:18 126:5 133:4 135:7 4.25 119:17 123:8 4.25. 117:17 4/17/2024 89:3 4/17/24 89:15 91:12 4/20/23 118:18 4/24/23 123:21 124:6,10 4/26/2027 134:16 40562 3:13 53:4 55:13 71:18 111:3 121:12 122:2 123:22 124:17 125:4 126:22 4137 66:1	5 5 3:3,16 50:24 65:22,24 66:4 69:24 74:1,4 75:22 80:6,9,15 80:16 81:5,17 107:17 5.50 100:7,17 101:6 108:18 109:7,7,20 110:15 111:18 114:17,19,25 126:17 5.50. 101:24 110:16,20 5.75 75:23 80:16 5.75. 74:2 50 18:17 47:13 113:18,21 114:7 114:10,16,20	6 3:18 70:18,20 92:5,13,17 111:8 117:2 127:16 6.35. 89:16 6.50 100:16 101:23 109:7,8 111:19 113:15 113:18,23 114:9 129:3 6.50. 100:8,24 101:7 108:18 109:21 113:17 126:18 129:2,8 60 3:23 91:19,21 93:7 61 118:13 65 3:16 6645553 137:3 696 65:16 67:9 67:14
			7
			7 3:19 74:8,9 75:1 77:13

[7 - answer]

Page 140

81:18 92:6 70 3:18 725 17:14 74 3:19 7:23 1:3 4:10	accountant 23:11 accounting 25:4 38:1 accuracy 21:21 24:16 25:11 36:12,20 55:8 94:2 105:5 129:12 136:12 accurate 6:1 37:2 105:24 action 38:14,22 39:4 135:12,13 activities 18:5 activity 18:23 actual 93:8 109:20 123:19 124:5 125:5 126:23 actually 24:14 61:3 73:17 74:4 77:10 80:6 81:4 83:2 87:20 91:19 92:23 93:19 94:23 96:25 97:16 100:9,18 104:1 104:3 106:24 108:22 109:18 112:22 116:9,16 124:9 ad 65:16 adam 2:3 4:18 5:12 22:8 68:23 73:5 77:17	79:10 81:20 88:11 115:21 119:20 131:3 add 50:18 additional 49:20 51:7 52:13,14,19 93:23,23,25 address 24:15 120:18 addressed 32:22 adduced 5:4 adequate 102:22 112:1 advice 131:9 advise 28:7,20 aedwards 2:5 affiliations 4:16 afternoon 4:2 aggregate 45:24 ago 33:22 35:10 agree 7:11,16,25 22:17 27:22 30:7,8 56:24 57:6 86:25 110:16 113:20 114:6,15 125:2 agreement 17:2 agreements 15:11 130:8 ah 107:25 ahead 5:22 9:13 9:16 16:25,25 21:6 32:22 43:7 53:2 56:5 74:7	88:19 104:12 107:24 118:4 128:1 akin 31:9 al 4:7,8 136:7,7 137:1,1 aligned 98:8 allowed 76:24 alternative 1:10 amount 18:22 30:11,11 106:4 ample 63:10 analyses 63:9 analysis 57:21 63:3,16 andrew 2:20 4:11 angles 26:3 answer 7:23 14:5 16:6 19:19 20:3,10 22:20 24:3 25:13 27:15,24 28:11 31:14 32:3,12 34:5,17 35:5 36:22 37:14 38:16,24 39:6 40:3,15 41:15 42:1,14,18,21 43:13 44:1,24 45:5,15,23 46:6 46:14 47:19 48:9,15,23 49:14,18 50:4 50:17 51:10
8			
8 3:21 86:7,10 88:14 800 2:4,14 136:2 807 87:20 86 3:21 71:10 88 3:22			
9			
9 3:22 88:22,23 90 3:23 99:10 912 122:8,13 95303 69:24 979402541 65:20			
a			
abilities 51:24 ability 51:20 52:16 able 9:18 18:10 21:10 47:11 50:13 51:7 53:12 66:2 71:2 72:4 96:4 102:22 above 136:10 absolutely 18:16 accept 29:14			

[answer - audit]

Page 141

52:24 54:25 55:10,17 57:19 58:22 59:6 60:23 62:9,21 63:20 67:2,21 68:13 69:20 71:20 72:4,14 72:24 74:21 75:16 76:7 77:20 83:7 84:3 84:6 96:14 97:7 97:11,18 99:1,3 99:14 100:20 101:15 102:11 103:19 105:18 114:2 115:24 124:1,20 127:1 129:6,20 130:2 130:17 131:5,9 131:14 132:19 answered 48:8 97:9 98:25 99:12 124:18 answering 7:24 answers 6:13 antacid 87:7 antibiotic 71:1 anticipate 129:14 anybody 42:15 anymore 31:23 appear 61:1 appearance 4:15	appeared 2:24 134:8 appearing 10:23 appears 67:16 69:24 75:12 86:17,25 91:14 91:18 92:20 109:1,4,17 110:6 118:5 120:16 127:4,4 appreciate 40:9 approach 50:10 appropriate 5:16,18 52:3 106:4 131:3 132:16 approximately 9:1 18:1 19:15 20:20 64:13 april 1:20 4:4 10:20 30:22 65:3,5 118:21 124:3 134:8,11 135:5,14 136:5 136:8 137:2 area 106:8 132:17,20 arrive 95:23 96:20 aside 16:3 51:6 asked 44:7 45:2 46:19 48:7 88:13 97:9,17 98:25 99:12	124:18 asking 7:4,9,14 13:18 41:18,21 98:9 114:3 127:19 130:11 130:12 asks 18:4 asset 24:5 25:16 30:21 assignment 22:18 assistance 42:12 43:22 assisted 17:16 associates 26:15 assorted 89:12 89:24 assume 7:15 59:16 98:3,10 132:14 assumes 45:14 83:6 84:1 105:17 123:24 assuming 37:19 47:2 62:3 assurance 25:20 attached 37:1 103:6 136:12 attempt 83:1 attendees 2:24 attending 9:10 attorney 4:17 14:23 135:10,12 136:14	attorney's 131:8 attorneys 38:21 audit 3:16,19,24 3:25 20:7 21:22 21:24 22:12 24:5,22 25:17 26:24 27:12,16 27:19,19,20 28:15 29:18 30:6,21 32:14 32:21,23 33:9 33:12,12,23 34:2,14 35:1,8 36:13 40:1,12 45:10,11 46:15 46:16,17 48:4 48:21 49:11,24 50:15,25 51:1,8 55:7 57:15 58:6 59:3 60:24,25 61:24 62:1,5 64:21 65:18,25 73:24 74:25 75:1,12 77:2,11 82:8 85:24 90:21 93:9,21 94:5 97:22 98:6 98:13 100:5 101:12,19 102:9 102:15,20 104:6 105:6 108:11,13 109:13 110:14 112:16,21 116:19 117:5,10 118:6,20 119:3
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[audit - bite]

Page 142

122:16,23 123:19 124:5,6 125:5,5 129:4 129:11 auditor 30:13 60:20 61:3 65:5 66:23 67:18 68:11 69:17 70:3 71:17 72:12 73:25 75:21 80:8,11 80:15,20 85:20 86:4 90:9,23 92:7,10 95:17 100:6,15,15,21 100:22 101:5,7 101:19 102:8,12 103:15 104:3 106:6,15,24 107:4 108:17 111:11 112:12 112:13 117:14 117:24 123:5 124:14 125:6 126:16 auditor's 101:24 auditors 46:3 94:13 103:13,24 107:14 audits 20:15,20 20:24,25 21:25 26:25 27:25 28:9 29:2,3 31:25 32:10	33:15 36:20 41:6 44:9,9,15 44:17,21 46:10 54:21 57:25 60:20 99:20 authorized 135:3 available 20:12 52:10 62:18,18 71:4 136:10 avenue 75:2 89:5,19 91:13 avoid 7:20 avoiding 30:14 aware 26:7 27:8 27:12 57:14,23 66:20 121:12 129:23 130:13 b b 1:9 3:9 4:23 52:1 57:3 bacitracin 3:18 71:1 back 7:2 9:20 10:10 18:19 19:22 22:16 25:4 27:2 29:5 32:4 36:25 37:16 43:14 50:8 56:25 58:5 67:7 69:23 70:14 73:4 77:22 78:10 80:3 81:19 82:21 85:17	87:11 88:10 97:20,21 98:5 98:12,19 99:10 101:20 108:6 110:21 116:1 117:7 120:19 121:21 124:24 127:5,14 132:2 132:11 bad 38:6 bag 116:7 bags 116:7 baker 2:20 4:11 ballpark 18:7 19:14 20:19 bank 6:24 38:2 banking 29:10 30:5 bar 92:25 barista 85:13,14 based 16:6,20 43:18 52:2,17 73:24 77:1 80:24 86:1 96:21 100:4,17 106:18 107:9 124:2,15 126:21 127:2,2 basis 119:7 bates 56:14 66:1 66:5 74:13 76:1 109:6,8 120:9 121:12 bear 78:17	beginning 4:16 35:22 73:21 84:18 126:4 behalf 1:5 2:2 2:12 4:22 17:21 believe 13:5,22 14:17,24 17:9 18:14,24 29:18 40:11 46:24 49:23 50:1 52:20 53:20 58:1 64:20 74:18 79:21 81:17 85:20 87:22 98:18 99:8,18 102:8 104:24 108:12 122:17 128:2 131:19 berries 89:12,24 berry 87:7 best 7:22 19:8 23:21,21 24:10 37:2 beyond 87:20 131:16 bill 17:22 18:22 billing 17:6 19:1 bit 12:3 20:23 23:6 86:23 93:18 105:22 126:9 bite 80:21 81:4 87:1 90:18
--	--	---	--

bites 3:22 73:19 73:23 74:18 76:21,25 78:3 78:25 79:5,16 81:14 82:5 83:2 85:21 86:18 87:3,6 88:14 89:13,24 90:6 94:21 95:16 96:6 blank 113:6 block 37:23 blurs 86:20 board 28:21 books 31:5,7 borrowed 104:5 bottom 17:13 53:22 89:21 91:22,23 107:17 119:9 bought 108:25 116:7 bouncing 68:18 bound 130:8 131:19 boy 122:10 boy's 54:9 brand 71:4 break 35:18 36:10 73:7,10 81:24 84:10,22 85:3,6,12,17 125:21,24 brief 35:18	briefly 8:4,24 briefs 54:9 bring 11:15 12:18 26:24 brought 12:10 brunswick 2:8 bryson 2:3 bullet 39:23 41:5,10,23 42:10 47:17 49:25 65:2,4 73:18 76:23 77:16 78:2 80:3 80:19,24 85:18 99:19 106:14 117:10 126:10 bups 29:6 business 31:10 31:16,18 businesses 88:3 buy 23:21 110:15 buy's 23:21	captured 11:14 carmen 1:4 case 1:3 4:9 5:15 11:2 13:15 13:21,22 14:8 17:3,6 18:2,15 20:8 22:18 31:24 33:25 36:18 37:20,23 38:4,8,14,22 39:4 60:21 63:15 64:7 85:9 90:19 93:3 106:1,7,23 129:24 130:4,14 132:15 cases 37:7,11 78:18 causing 102:3 caution 16:10 41:25 42:13 cautionary 45:6 center 23:22 central 10:21 certain 14:2 47:22 48:18 113:6 certainly 18:12 certainty 58:2 116:6 certificate 3:4,5 134:1 135:1 certify 134:7 135:3,9	cetera 24:9 challenge 30:10 36:12 93:13 94:9 95:8 challenged 36:19 challenges 24:19 29:2 100:25 106:9 challenging 93:18 103:5 change 40:23 125:23,25 137:4 137:7,10,13,16 changes 136:12 characterization 115:19 120:22 charged 22:1 119:17 chase 56:23 check 43:4 104:19,25 132:1 checks 26:20 105:12 chewable 87:7 chewy 3:21,22 73:19,23 74:18 76:21,25 78:3 78:25 79:4,16 80:21 81:4,14 82:4 83:2 85:21 86:18 87:1,3,6 88:14 89:13,24 90:6,18 91:17 94:21 95:16
	c c 2:1 4:1 calculating 132:16 call 49:20 53:5 63:10 121:25 122:6 called 8:17 26:9 104:15 canal 2:14 136:2 capacity 15:3,4 28:4		

[chewy - conclude]

Page 144

<p>96:6 chief 24:5,5 30:20 choose 49:2 chose 47:16 48:20 50:9 chosen 51:4 citation 65:9,14 citations 127:7 cite 39:20 40:17 69:15 75:7 109:6 111:3 123:9 cited 11:4 39:22 47:7 66:14 75:5 104:2 124:14 cites 46:24 citing 120:8 civil 136:23,23 clarification 40:9 43:18 clarify 40:16 44:3 56:21 class 4:19,21 20:16 38:14,22 39:4 44:21 45:10,20 58:10 58:18 classified 132:16 classify 41:6 clear 7:5,19 12:8 50:7,9 51:1 58:15</p>	<p>clearest 50:1 clicked 53:21 clients 23:12 25:6 close 22:6 36:9 78:20 closed 65:16 code 82:8,10,24 83:3,20,20,24 85:23 86:3 87:23 88:4,9,11 90:5,9,11,17,20 91:23 92:7,25 94:24 97:2 codes 83:15 coffee 85:2,15 coincidence 76:17 coleman 2:3 colinas 8:16 colleague 14:17 collective 23:7 column 56:23 57:3,3 59:13,14 60:2,10 61:9,13 61:18,23 68:1,7 68:22 79:6,24 81:9 113:6,8,16 115:13 122:17 122:17 columns 57:13 65:16 78:6 79:7 111:17 112:15 121:17</p>	<p>come 7:7 25:10 25:20 26:2,19 27:6 28:1 61:10 88:9 comes 25:24 52:20 comfort 35:18 102:21 comforting 103:8 coming 25:24 comment 35:13 70:9,11 72:2 76:9 114:21 comments 104:1 120:18 commission 134:16,16 committed 125:7 common 24:20 29:8,13 communication 29:7 43:15 companies 6:21 23:14,16,22,23 24:15,25 27:21 28:5,6,8,25 29:9 29:14,21,24 30:15 company 13:24 25:7,9,16,19 26:6 27:8,12 29:1,17 32:15 34:14</p>	<p>company's 28:17 comparable 22:4 23:1 compare 129:11 comparison 23:3,17 compensated 17:14 competitor 31:11 compiled 121:19 complaints 25:23 26:12 complete 135:8 completed 136:16 compliance 22:2 22:24 23:25 24:8 37:25 comprehensive 107:21 computer 122:10 computer's 78:16 concept 8:14 94:17 concerning 85:20 96:6 108:13 109:19 conclude 60:9 61:5 94:16 110:15 116:23</p>
--	---	--	---

[conclude - correct]

Page 145

116:25 125:6 concluded 95:11,12 133:20 concludes 133:5 conclusion 45:17 50:23 95:24 96:21 126:21 conclusions 99:16 concrete 26:5 conduct 32:20 63:3 conducted 63:10,16 conducting 26:20 47:21 confidence 95:15 102:22 confidential 16:12 49:17 confidentiality 5:16 15:11 16:7 16:21 130:8 131:1,20 confirm 54:5 67:17 72:11,19 83:1,13 94:20 96:5 129:12 confirmed 116:19 confused 121:25 confusing 7:8 46:19	confusion 56:4 conn's 23:10,20 25:1,2,8,9 26:6 26:8 28:5 32:6 connected 135:12 connie 11:12 considerable 30:10,11 considered 136:17 consistent 112:11,11 consult 17:11 consultant 21:15,17 25:5 32:15,25 33:3 consulting 13:17,17,20 consumer 38:14 38:22 39:3 consumers 38:14,21 100:17 101:4 contact 13:14 contained 58:7 99:8,21 123:22 125:4 126:21 contains 57:24 101:12 109:14 119:14 content 43:25 contents 49:15 context 21:3 59:22,24	continue 7:3 control 24:7,23 25:15 28:14 conversations 16:10 41:16 42:5 43:22 44:1 44:2 45:4 85:8 85:11 cooper 28:7 coopers 23:12 25:5 33:5,7 34:10 copies 136:15 copy 12:13 133:14 corner 53:25 corp 23:20 25:2 28:6 30:22,25 31:1,8,11,22 32:6 corporate 6:7 6:10,17 corporation 1:8 4:7,24 136:7 137:1 correct 6:14 9:2 9:3 10:21,22,24 10:25 14:11 15:16,17,23 16:8 25:2 26:12 26:13 30:22,23 33:10,13 34:11 34:12,15 36:14 36:16 37:21 39:16,17 40:1	44:6 46:25 47:1 47:4,5 48:6,21 48:24 50:15 51:8 55:15,23 57:11 60:12,13 61:19,20 62:7 62:15,16 64:10 64:12 66:8,12 66:13,15 67:15 67:19 69:14,18 70:5 71:14,15 75:10,11,23 76:1 78:3 79:1,2 79:17,18,21 80:7,9,10,22 81:13 82:6,8 83:20 85:21,22 85:25 86:18 87:4,8,9,20 88:18 90:11,12 90:22 91:14,17 92:13 100:12 101:16 108:19 108:20,23,24 109:2 110:4 111:13,19 113:3 113:15,19 116:16,17,20 117:22,24,25 118:6,14,23 119:1,18 122:14 122:15 123:22 124:7 126:24 128:18 130:6
--	--	---	---

[correctly - defendants]

Page 146

correctly 41:18 121:20 corresponding 57:10 corresponds 57:14 corroborate 68:17 corroboration 106:4 counsel 4:6,15 16:11 21:19 41:16 42:6 43:15,22 44:3 45:5 55:3 115:22 119:21 120:25 135:10 135:12 count 3:21,23 39:24 57:12 73:19,23 74:19 76:25 78:3,25 79:4,16 80:21 81:4,14 82:4 83:2 85:21 86:17,23 87:7 89:13 90:18 91:17,19,21 93:7 94:21 95:16 96:6 110:3 111:8 117:2 127:16 county 40:1,12 41:6 49:24 64:20 99:20	134:3 couple 11:13 14:18 15:6,19 course 26:16 court 1:1 4:8,13 4:25 5:7 7:19 21:4 84:25 91:2 91:5 133:7,10 133:13 coworking 8:17 create 12:25 created 54:14 54:18 criteria 54:20 cst 1:21,21 culture 22:2,24 23:17,24 24:8 cup 85:2,14 current 23:10 currently 8:18 cursor 128:1 customer 26:9 26:12 57:16 114:18,22 customer's 25:23 customers 22:1 25:25 108:25 112:20 116:7 cut 56:23 cv 1:3 4:10 12:18,21 36:25	d d 1:9 3:2 4:1,23 7:1 68:24,25 83:14 damages 132:16 dann 2:7 4:20 dannlaw.com 2:9 data 3:16 19:15 20:8 29:18 42:3 42:10 43:3 45:10,11 48:4 49:11 50:22,25 51:8 52:14,15 52:19,25 53:4 53:14,22 54:23 64:21 65:15 67:8 72:11,11 72:21 74:3 79:15 80:5 81:3 81:7 83:14 94:14 95:15 96:21 98:4,10 98:18 99:8 100:8,17 101:8 108:21 111:3 112:19 115:7,13 115:20 116:15 116:18 120:19 120:22,24,25 121:19,22 125:3 126:21 127:3,9 128:12 129:11 date 1:20 37:2 53:24 57:3,15	89:17 97:22 98:5,12 116:8 118:16,19,25 119:22 122:16 122:17,19,23 123:13,16,21 124:3,5 125:5,5 136:13 137:23 dated 64:10 135:14 dates 128:10 day 8:9 26:16 26:16 127:10 134:10 135:14 days 25:4 57:15 58:13,20 59:4 65:17 98:5,12 98:19,19 99:10 112:21 125:5 136:16 dealing 25:10 decide 29:21 decided 40:16 decipher 124:23 decision 29:24 declaration 55:15 66:14 declare 137:20 default 61:19,21 62:4,24 63:5,17 112:16 defendant 38:12 defendants 1:11 2:12
---	--	--	---

[defense - dollar]

Page 147

defense 26:23 28:13,19 defer 125:15 definitionally 59:24 60:7 definitions 3:14 69:11 demonstrate 74:17 80:20 depends 52:15 depo 9:14 136:8 137:2 deposed 6:6,9 deposing 136:14 deposition 1:16 1:22 3:1,5,11 4:5 5:14 8:3,7 8:12,19 9:5 10:20 11:1,3,6 13:3,7,9,12 36:4 51:24 107:12 121:11 133:20 135:1,4 depositions 6:1 6:4,17 depth 112:3 describe 19:6 54:13 63:16 85:19 94:20 described 41:13 42:9 62:6 description 3:10 71:5 78:25 91:25 95:7	descriptions 95:22 designated 80:22 designations 5:17 detail 109:23 125:10 details 23:24 57:20 70:25 73:2 130:11 131:17 determine 34:21 determined 35:1 deviations 39:25 40:4,11 dg 3:13,13,14,16 3:18,19,22,23 53:4,22 56:13 65:9,15 68:5,6 71:18 72:11 83:2 91:11 95:15 115:20 117:17 121:12 122:2 129:12 differ 62:23 difference 112:8 112:13 differences 63:4 63:17 different 9:21 25:14 26:2,19 32:13,24 33:15 48:14 49:7	68:10,18 70:3 70:16 90:8 91:16 94:6 103:12 differs 92:6 difficult 7:20 47:10 68:17 72:2 93:12 94:11,18 95:2 95:23 96:16,18 96:20 114:21 difficulty 95:21 95:21 digit 92:9,11,24 digits 82:7 direct 28:7 73:13 directionally 29:14 directly 28:5 discounted 113:24 114:10 114:20 discover 27:21 discrepancies 22:4,25 24:1 27:8,13 28:1 55:14,23 discrepancy 26:7,10 28:16 discuss 39:13 106:23 discussed 102:23 103:23	discussing 121:23 discussion 121:8 discussions 43:20 dispute 6:19 52:1 disruption 30:14 district 1:1,1 4:8,9 26:18 document 53:10 53:17 54:14 56:15 74:13 76:3 77:5,7,18 109:18 120:8,11 129:7 137:20 documentation 106:19 documents 39:10,13,14,18 39:19 49:6 51:24 77:16 78:6 85:5 doing 24:11 28:17 34:10 35:9 58:3 65:6 68:14 117:15 123:6 125:11,14 dolgen 1:9,9 4:23 dolgencorp 1:9 dollar 1:8 4:7 4:23 18:1 19:16
--	---	---	---

[dollar - either]

Page 148

20:14,16 21:19 21:22 22:2,23 23:17 31:12 33:25 36:13,19 40:12 41:12 42:12,15 43:1,3 50:2 54:22 55:4 55:5 57:23 58:11,19 59:3 60:11 62:6 65:6 65:10 67:25 70:4,24 72:22 73:24 74:2 75:2 75:9 77:2,11 79:3 80:4,16 81:3,7 83:14 89:3,23 91:11 91:24 94:5,21 96:5 97:21 98:11 99:9 100:5,8,17 101:8 104:16,19 105:12,13 108:21 110:24 112:19 115:7,12 116:8,14,18 117:14,18 120:19,22,24 121:3,13 122:1 123:5 126:21 129:16,25 130:13,22 131:10,11 136:7 137:1	draft 49:13 75:13 drafting 17:16 17:19 draw 29:9 driver's 134:23 duly 5:4 134:8 duplicative 107:22 duties 50:21	31:21 32:7 33:1 34:7,24 35:7,15 35:17 36:1,17 36:24 37:18 38:19 39:1,8 40:6,19 41:3,20 42:7,17,23 43:8 43:16 44:4,13 45:1,8,18 46:1,8 46:18 47:12 48:1,19 49:1,22 50:11 51:5,15 52:11 53:1,8 54:19 55:2,12 55:20 56:1,7,22 57:22 58:16 59:1,8,12 60:1 60:18 61:7 62:12,22 63:2 63:23 64:2,18 65:23 67:3,24 68:19,24 69:2 70:1,10,19 71:24 72:3,7,18 73:3,8,12 74:11 74:24 75:20 76:11,20 77:24 78:9 79:12,14 80:1,18 81:1,11 81:23 82:3,15 82:18,23 83:11 83:19,23 84:5,9 84:13,21 86:8 86:22 87:18 88:1,7,13,17,24	89:11 90:15 91:2,8,9 92:12 92:16,21 93:4 93:24 94:19 95:13 96:1,10 96:17,23 97:6 97:14 98:1,16 98:22 99:5,17 101:10,17 103:9 104:9,23 105:10 106:12,21 107:11 108:1,9 109:5 110:2,7 110:13 111:16 112:4 113:1 114:5,14 116:5 116:11,24 117:8 118:3 119:5,23 120:4,6,17 121:1,9,24 122:5 123:3,18 124:4,12 125:1 125:16,17,22,24 126:7 127:11 129:9,15,22 130:5,21 131:4 131:7,18,23,25 132:5,7,13,21 132:25 133:2,10 133:12,17 effort 30:15 either 28:5,25 39:3 93:17 96:21 132:24
--	---	---	---

[el - exhibit]

Page 149

el 3:24 42:25 99:24 100:3 103:16 106:15 109:16 110:4 111:8 114:8,17 117:1 126:11 127:15 electronics 25:8 31:4 element 30:9 31:10,16,17 email 25:25 26:10 136:14 emailed 136:15 employed 30:20 employee 135:10,11 encompassed 121:4 encompasses 22:17 encourage 11:22 engaged 18:23 32:24 36:10 enhance 24:23 28:17 enhancements 29:15 enlarged 87:10 ensued 28:9 ensure 56:4 63:13 105:23 entire 7:22 65:3	entities 35:2 44:16 45:12 entries 19:1,7 57:10 entry 54:7 128:2 128:14,22 environment 24:7,23 28:15 105:20 errata 3:7 136:12,14,16 erroneous 29:19 46:4,25 64:21 99:21 101:13,18 102:5 error 37:16 46:11,11 48:18 66:11 74:18 76:22 79:20,21 80:12,21 81:2 85:20 102:3,3 117:24 123:16 125:7 errors 39:25 40:5,18 41:13 41:22 42:9,18 43:10,23 48:4,5 48:5,11,15,17 48:21 49:11,25 50:2,15,19 83:12 especially 102:23 esq 2:3,7,13 136:1	estimate 17:25 18:4 19:14 20:19 47:11 et 4:7,8 24:9 136:7,7 137:1,1 event 52:13 evidence 45:14 83:6 84:2 105:17 123:25 evidenced 102:14 evidencing 105:8 exactly 75:5,25 examination 3:3 5:20 examining 124:24 example 23:15 25:1,2,8,8,10 26:6,21,22 29:1 30:5 34:8 42:24 43:4 47:3 85:19 93:2,21 98:19 100:13 101:11 106:13 109:1 117:23 125:3 examples 26:5 27:7 41:6 46:23 47:6,16 48:4,21 49:10,24 50:1 50:14,25 51:7 64:19 72:9 83:12	exception 127:9 exceptions 49:20 exchanged 121:21 excluded 21:4 exclusively 42:11,19 executed 64:11 executing 105:9 execution 3:7 executive 30:21 executives 24:5 24:6 exhibit 3:11,12 3:13,14,16,18 3:19,21,22,23 3:24,25 9:14,23 10:12,15,17 11:20 12:22 13:1 21:7,7,8 37:1 53:3,6,7,18 56:5,6,9,10,13 56:19,25 61:13 62:7 63:5,25 65:22,24 66:4 67:8 69:23 70:14,17,18,20 74:8,9 75:1 76:14 77:13 78:10 81:13,16 81:18 86:7,9,10 88:8,14,21,22 88:23 90:13,14 90:16 91:1,10
--	--	---	---

[exhibit - form]

Page 150

92:23 93:7	31:1,8,11,22	feelings 7:10	fit 96:14
97:15 108:8,11	32:6	felt 40:25	five 73:6 81:25
108:11 110:22	f	field 25:24 56:4	84:9 125:24
110:23 111:4	fact 55:21 95:9	fields 56:2	132:2
118:2,4 119:9	95:17 99:10	figured 10:15	fl 136:14
119:21 120:20	103:17,23	53:15	flag 49:15
121:10 122:2,3	106:16 109:13	file 20:25 75:18	flawed 29:19
122:6,7,12	facts 45:14 83:6	124:2,3	florida 1:25
124:17 127:3,18	84:1 105:17	filed 4:8	134:2,6,15
exhibits 3:12	123:24 137:20	files 20:23 55:19	136:17,23
5:14 9:16 12:15	fail 46:20	68:18 94:5	focus 30:16
82:21 90:19	failed 21:25	finance 38:1	folder 75:18
91:4	28:8 29:2 33:12	financially	follow 97:16
exit 57:1	36:20 72:20	135:13	114:4 126:8
expand 107:23	97:22 98:12	find 26:16 47:6	131:8
expect 114:18	112:21 122:23	48:3	followed 83:9
114:22	fails 136:18	findings 36:13	102:18
experience	fair 14:3 35:11	fine 29:12	follows 5:5
28:25 29:8 32:8	77:18 88:20	fines 28:9 29:1,3	foregoing 135:4
88:2 102:25	fall 32:5	finish 11:11	135:7 137:20
expert 6:4 8:4	familiar 6:15	firm 2:7 4:11,19	form 13:23 14:4
13:5,25 14:1,2	9:15 23:24 25:9	4:21 15:1,25	19:18 20:2,9,22
17:10 22:11	29:11 30:24	44:11,17	22:19 24:2,17
38:3,5,10 51:25	53:17 58:1	firms 14:1 25:18	25:12 27:14,23
64:6	far 18:15 53:25	first 5:4 9:14	28:10 29:4,20
expires 134:16	58:5 97:20	14:12 15:2	31:13 32:2,11
explain 6:16	fast 122:10	34:20 35:18	34:4,16 35:4,12
extensive 20:24	faster 67:12	37:17 51:18	36:15,21 37:13
external 25:18	78:16	54:7 56:23	38:15 40:2,14
27:19	favorable 30:6	66:19 75:1 78:2	41:14 42:13,20
extracted 42:4	federal 131:2	80:3 84:12	43:6,12,24
extremely 19:4	136:17,23	85:18 95:2	44:10,23 45:13
19:4	feel 17:11	99:19 118:19	45:22 46:5,13
ez 23:20 25:2	107:22 115:11	126:10 128:1	47:9,18 48:22
28:6 30:22,25			50:3,16 51:9

[form - getting]

Page 151

52:8,23 54:15 54:24 55:9,16 55:24 56:20 57:18 58:14,21 59:5,23 60:15 60:22 62:8,20 62:25 63:19 64:16 66:25 67:20 68:12 70:6 71:19 72:13,23 74:20 75:15 76:6,18 77:19 78:4 79:22 80:13,23 81:6 83:5,17,21 84:2 87:15,24 88:5 89:9 92:8 92:14,19 93:1 93:10 94:3,25 95:19 96:9,19 97:3,10,23 98:14,20 99:2 99:13 100:19 101:14 102:10 103:18 104:3,20 105:2,16 106:17 107:7 109:3,25 110:5,11 111:14 111:24 112:23 113:25 114:11 115:23 116:10 116:21 117:6 119:2,19,23 120:14 121:6,15 122:25 123:14	123:23 124:11 124:19 125:8 126:25 129:5,13 129:19 130:1,16 131:13,21 132:18 forming 62:14 forth 19:22 41:10,22 42:10 42:25 43:10,14 49:10 55:23 56:18 62:6,15 64:20 82:21 101:19 109:15 120:12 121:21 123:21 forwarded 3:7 foster 8:17 found 41:18 42:18 46:3 47:3 48:6 73:25 75:21 80:15 90:5 100:6,15 107:22 108:17 112:12,13 126:16 four 8:8 9:1 37:12,15,17 fpr 1:23 frame 65:11 117:19 frank 14:20,22 free 17:11 115:11	friday 1:20 4:3 front 11:18 76:14 86:21 115:11 116:1 118:16 full 5:22 13:22 58:2 function 26:23 26:24 28:13 86:16 functions 25:15 38:1 further 37:16 50:24 124:24 130:20 135:9 g g 4:1 68:7 gateway 2:14 136:2 gay 2:4 gel 3:25 117:16 119:8,12,16 120:10 122:14 122:24 123:7,20 124:13 general 1:8 4:7 4:23 18:2 19:16 20:15,16 21:19 21:22 30:16 31:4,12 33:25 36:14,19 40:12 41:12 42:12,16 43:2,3 50:2 54:22 55:4,5 57:23 58:11,19	59:4 60:12 62:6 65:6,10 68:1 70:4,24 72:22 73:25 74:2 75:2 75:9 77:2,11 79:3 80:4 83:14 89:4,23 91:11 91:24 94:5,22 96:5 97:21 98:11 99:9 100:5,8 101:8 104:16,19 105:13,14 108:21 110:24 112:19 115:7,12 116:8,14,18 117:14,18 120:19,22,24 121:3,13 122:1 123:5 126:21 129:16,25 130:13,23 131:10,11 136:7 137:1 general's 22:2 22:23 23:17 80:16 81:3,7 100:17 generally 19:12 24:6 88:6 generated 63:15 gerson 13:23 21:18 getting 11:10 41:15 45:4,4
---	---	--	--

[getting - heads]

Page 152

49:13,14,16 78:19 105:7,24 131:1 give 7:14 12:2,5 19:14 20:19 23:15 26:5,21 27:7 30:4 37:4 42:24 46:12 48:20 53:10 64:23 67:13 68:6 69:21,23 71:3 85:14 118:8 131:25 given 6:1,17 39:3 45:5 125:2 125:3 132:21 133:6 gives 102:20 giving 8:12,18 36:3 glanced 8:5 glg 13:22,24 14:8 15:12 17:18,19,21,22 17:24 18:3 19:1 19:11 21:18,18 glg's 17:14 go 5:22 9:13,16 9:20 10:1 11:8 16:25,25 18:18 21:6 27:2 29:5 29:14 32:4,20 35:17 37:16 43:7 50:7 53:2 56:5 60:2 67:7,9	67:25 68:3,20 69:23 70:14 73:4,17 74:7,12 74:25 78:10,13 81:19 84:12 87:20 91:3 97:15 101:20 104:12 107:15 107:24 108:1 110:21,22 112:15 113:13 116:1 117:7 118:4 119:9 120:19 122:7 126:13 127:14 127:20 128:1 130:20 132:6 133:2 goes 58:7 97:21 98:5,12 106:10 going 4:3 7:2,4 7:5,10 9:16 11:20 16:5,19 16:23 22:7 25:4 30:10 45:3 48:7 49:5,12 53:5 57:5 69:8 70:17 73:13,21 74:7 77:15,22 80:3 82:18,20 86:19 88:8,9,21 90:13 96:2,3,12 100:2 103:20 112:1 115:18 119:19 119:20 120:21	125:19 127:4,5 130:25 131:8 good 4:2 64:8 73:6 81:20 125:25 governed 5:15 government 20:7,15,20 21:21 27:11,20 27:25 28:8 29:18 30:6,13 31:25 32:9,23 33:8 34:2,13 35:8 36:13 46:3 46:25 47:8 48:4 50:14 54:21 57:25 58:6 59:3 60:20 66:10 129:11 governmental 35:2 44:16 45:12 grande 42:25 99:24 100:3 103:16 grossman 2:3 group 13:21,23 21:18 23:5,21 24:5 guilty 7:21 guy 12:4 guys 131:25	h h 3:9 half 115:21 halfway 21:14 hand 5:1 63:11 134:10 handbook 102:16 handheld 100:23 104:13 104:22,25 107:5 handle 91:3 hands 121:21 hanes 54:9 hang 57:1 happen 25:14 105:20 happened 14:8 happens 105:21 105:22 hard 21:1 35:13 59:7 60:9 63:12 68:14,14 69:10 70:7,9 71:21 72:6,16 75:19 76:8,19,19 77:8 77:22 94:16 97:4 123:15,17 125:11 head 51:12 107:15 headers 63:14 heading 60:12 heads 43:3
--	--	--	---

healthy 29:22 30:3 hear 14:21 heartburn 87:6 help 7:19 10:4 43:9 93:20 helped 24:14 helping 44:3 helps 11:22 hey 43:3 73:5 hh 134:16 hhgregg 23:22 hht 103:24 104:16,18 105:14 106:2,6 high 16:17 18:13 24:4 37:22,24 130:18 highlight 24:21 highway 2:8 hire 32:15 hires 25:19 hmm 9:19 hold 12:11 18:6 honestly 35:13 hopefully 56:11 hour 17:14 125:20 hourly 17:8,9 hours 8:9 9:2 18:1,10,11,11 18:15,17 19:5 20:1 https 89:22	huge 53:10 huh 12:7 human 6:18 hundred 11:14 18:11,12,15 hurt 7:10 hypothetical 114:4 hypothetically 98:3	identifies 78:21 identify 41:12 42:9 55:14,22 57:5 79:20 88:4 identifying 41:22 43:10,23 ids 128:8 immediately 93:20 impact 41:1 impacts 99:15 implement 24:15 implicate 16:11 implies 37:20 important 7:18 12:2 improve 28:14 improvements 24:9 30:17 32:17 inaccuracies 27:22 34:3 50:25 51:3,8 129:18 inaccuracy 26:16 inaccurately 58:12,20 59:4 inaudible 79:13 include 12:15 47:2,3,16 52:6 78:1 107:23 109:23	included 12:23 33:16 39:14 40:21 74:17 77:14 80:19 125:4 including 6:7 23:10 105:8 incomplete 93:17 94:10 96:21 incorrect 41:7 51:2 independent 34:23 indicate 40:17 50:7 117:7 indicates 93:22 110:9 126:22 indicator 106:1 individual 46:15 104:6 105:12 individualistic 29:23 individually 1:10 individuals 41:12,22 55:4 103:22 industry 22:5 23:1,2,4 29:6,10 inevitably 7:6 information 19:13 20:11 39:22 41:10
	i		
	idea 24:6 45:19 46:2 ideally 68:15 identical 92:18 97:2 identically 92:6 identification 10:12 21:8 53:7 56:6 65:22 70:18 74:9 86:7 88:23 90:14 108:8 118:2 134:22,23 identified 46:23 48:15 53:18 57:9,25 59:2 66:11 67:25 68:5,6,11 70:3,4 72:12,20 73:23 76:22 77:1 82:7 83:2,13,15 85:24 86:4 90:9 90:20 91:10 92:7 96:8 100:4		

[information - know]

Page 154

49:13,17 51:25 52:16,17 55:4,8 55:21 57:24 58:6 61:9 62:5 74:16 76:4,13 76:24 77:13 78:1 79:4,7,19 93:16 94:10 96:5 97:21 99:21 101:13,18 104:19 109:7,14 119:15 121:4,13 122:21 124:16 129:17 input 55:5 insider 37:20 inspected 65:5 117:14 123:5 inspection 72:10 95:18 98:6 101:19 118:17,20,23 inspections 72:20 inspector 60:19 65:25 66:10 81:12 82:7 83:3 93:8 94:24 96:8 96:25 107:4 124:6 129:4 inspectors 83:16 instances 107:19	instructing 131:4 instruction 86:1 96:13 integrity 50:22 105:6 intend 129:10 interacted 42:15 interactions 23:8 interested 135:13 internal 6:7,10 6:17 25:17 26:19,23 27:19 32:14 internally 6:11 28:18 internet 94:1 interrupt 11:11 introduce 9:16 introduced 53:9 56:9 introduction 21:13 introductory 7:3 invoice 19:10 involve 30:10 51:13 involved 17:19 30:15 33:24 79:25 95:21 103:15	involvement 31:25 36:18 involves 99:24 involving 20:16 35:2 117:10 119:15 129:18 129:25 130:13 131:11 irvine 8:19 irving 8:16,20 8:21 issue 24:16 60:21 67:15,19 68:1 86:5 126:20 issues 16:12,21 25:11 26:12 27:21 51:13 131:1,20 it'll 91:4 item 57:9 65:11 65:18 66:10 68:3 69:5,5,13 70:3 71:16,17 73:18,22 74:1,3 74:13 75:22 76:25 80:5,9 94:8 100:3,7,9 102:12 108:18 108:22 114:18 116:15 117:19 124:10 129:8 items 22:1 54:21 54:21 76:25 100:24	j j 122:17,17 javier 2:7 4:20 jersey 2:8 jmermino 2:9 job 7:20 120:4 137:3 jointly 1:10 joseph 1:4 4:7 136:7 137:1 jump 7:23 jurisdiction 118:8
			k
			keep 77:17 95:1 key 38:1 56:2 kind 7:3 25:22 25:23 49:9 94:14 111:11 120:4 132:17 kinds 6:19 know 5:11 11:9 19:10,17 20:14 20:18,25 23:19 24:6,19,20 25:22 26:16 27:5 28:22 29:10,13 30:4,5 30:5,12,16 32:20 34:21 36:19 40:22 42:5,22 44:20 44:25 46:9 47:14,14,22 48:11 49:4,16

[know - look]

Page 155

50:18,23 51:2,3 52:9,18 54:16 54:20 56:17 57:6 58:3,5,23 59:11,15,21 60:6,14,16,17 60:19 61:4,11 61:16,21 62:1 62:10,11,17,21 62:23 63:8,9,10 63:12 64:13 66:2 67:22 69:8 69:9 70:7,20 72:25 74:22 75:17,17 77:7 77:22 78:7 86:10 87:25 93:11,19,22 94:7,12,13,15 94:16 95:3,4,23 96:15 97:4,19 97:20 100:25 101:1,6 102:3,5 102:23 103:15 103:20 104:7 105:3,6,23 106:10,13,15 107:4,8,9,10 112:22 114:3 115:4,6,20 116:22 121:16 122:1 123:1,15 123:19 124:9,23 125:9,13 127:3 127:5,5,7 130:9	130:18,18,19 knowledge 28:24 37:3 known 134:21 knoxville 2:4 l l 2:7 label 56:24 labeled 59:13 61:9 lag 103:3 language 110:6 large 1:25 19:16 19:20 39:21 42:2 53:4,4,18 56:18,25 67:8 78:11 110:21,24 111:3 134:6,15 las 8:16 laura 1:23 4:13 134:5,14 135:2 135:17 law 2:7 4:20 102:17 lawyer 14:12 lawyers 14:15 16:22 leading 112:21 leads 29:12 learn 25:10 26:11 learned 88:3 leave 37:23 left 53:24,25,25 86:17 88:20	89:5 127:23 legal 4:12,14 136:22 lehrman 13:23 21:18 lending 31:16 length 102:24 letter 3:6 level 16:17 24:4 37:22,24 130:18 license 134:23 light 52:20 liked 45:9 likely 76:3 77:13 107:10 limited 41:1 62:11 line 26:23 28:13 28:19 43:2 66:7 73:9 75:25 81:24 87:13,20 89:22 90:20 110:25 113:2 119:11,13,14 128:2 137:4,7 137:10,13,16 lines 57:5 87:11 87:17 92:6 104:5 111:2,11 121:18 list 5:25 12:19 12:20 39:10,24 49:2 50:6 79:11 107:21	listed 11:7 37:8 37:12 45:20 48:24,24 49:6 62:19 63:5,18 65:12 69:13 101:6 117:20 128:25 listing 41:5 lists 82:4 125:4 litigation 21:3 37:11 129:17,24 130:13,24 little 31:1 93:18 125:19 live 68:15 84:24 llc 1:9 4:23 load 122:12 loaded 53:9,14 loading 53:13 57:2 78:12 locate 41:9 logic 47:21 long 32:4 63:24 64:14 look 11:22 24:8 24:8 27:1,3 28:16 29:15 32:16 42:2 43:2 63:7 77:4 86:20 90:16 91:23 94:14 102:4 107:24 110:14 115:11,12 119:11 128:7
--	---	---	---

[looked - means]

Page 156

looked 54:17 62:13,13 63:24 67:22 77:8 78:8 79:24 90:24 93:2,21 94:8 96:25 112:2 124:2 looking 14:2 21:13 36:25 37:7 51:19 56:25 57:21 62:10 63:12 66:16 68:16 71:17 81:9 92:23 93:6 94:4 101:25 119:13 122:11 123:10 124:15 looks 12:3 67:6 89:7 loop 36:9 loss 25:16 30:21 lot 6:3 11:4 23:14,14 24:20 42:3 60:25 72:25 93:15 106:5 114:22 125:9,10 lots 79:7 97:4	80:11,21 90:19 93:18 117:24 main 71:10 118:13 maintain 29:22 30:2 96:15 97:12 131:15 make 5:16 7:18 9:13,15 11:20 11:23 12:4,8,22 23:7,16 24:22 29:15,24 30:17 32:16 33:9 34:14,23 41:17 50:19 53:2 54:5 56:3 76:24 84:11 90:17 91:1,4 94:16 98:8 99:6 104:10 114:24 115:12 makes 103:4 107:17 making 23:2 112:20 management 28:21 30:8 manager 26:18 26:18 manchester 65:6 71:11 mandatory 37:23,25 march 19:3 64:10,15 73:24	75:7,7 77:1,10 100:4 113:22 114:7,16 117:11 117:13 118:23 119:22 122:20 122:23 123:5 mark 21:6 56:5 70:17 74:7 88:8 88:21 90:13 107:25 118:4 marked 10:12 10:17 21:8 42:4 53:7 56:6,19 61:12 62:7 65:22,24 70:18 74:9 86:7,9 88:23 90:14 107:24,25 108:8 108:10 111:4 118:2 120:20 121:12 markets 33:15 marking 9:15 match 14:1 54:20 76:15 90:24 93:17 94:14 95:22 96:22 101:2,21 103:1,4 106:3 matched 72:11 72:21 83:3,15 94:23 matches 76:13 76:17 96:7	matching 94:13 95:4,6,7,9 127:10 material 44:12 materials 21:20 41:19 matter 4:6 11:15 15:18,20 15:22 16:2,3,15 16:17 18:22 40:5 131:12 matters 6:8,10 6:17,18 15:6,15 15:25 48:12 130:11,23 131:10 mcguire 2:13 14:9,13,16,25 17:23 19:11 136:1 mcguirewood... 2:15 136:3 mean 6:16 11:11 20:23 21:25 24:25 25:14 27:9 30:2 33:18,21 40:24 42:22 44:2 48:5 50:18 63:7 70:13 76:16 77:15 83:8 94:5 114:21 115:10 115:25 123:12 means 59:21 83:24 111:22
m			
m 59:14 111:17 machine 9:21 made 13:14 20:12 25:6 32:17 67:12			

[meant - nontestimonial]

Page 157

meant 24:21 100:13 112:6 mechanism 107:13 mechanisms 27:25 media 4:4 35:20 35:23 84:14,19 125:20,25 126:1 126:5 133:4 meet 8:10 23:5 meeting 9:10 memorabilia 31:7 memory 12:25 77:9 115:12 mention 50:24 mentioned 16:20 23:19,23 32:5 65:19 120:23 130:7 mentions 77:12 77:16 merchandise 31:4 merino 2:7 4:20 4:20 merit 34:22 35:3 134:5 135:2 met 8:8,25 9:7 method 27:5 94:6 methodology 21:21 102:1	methods 132:16 michelle 11:13 michigan 134:23 milberg 2:3 4:18 milberg.com 2:5 mine 78:16 minimize 71:3 minus 66:20 minute 11:21 37:4 53:3,11,15 69:21 71:3 78:14 84:9 125:24 minutes 73:6 81:25 82:1 132:1 mischaracteri... 123:24 mismatch 106:2 misread 22:8 misrepresenting 120:2 missing 92:10 92:10 96:3 misstates 67:1 114:1,12 mistaken 13:6 mistakes 105:19 105:20 mixing 123:16 mock 32:21 modify 52:13,21	moment 124:23 monroe 75:2 89:4,19 91:12 month 19:3,3,3 123:21 months 15:7,16 15:22 65:13 move 113:17 multiple 19:21 20:24 75:18 77:16 103:22 122:13 n n 2:1 3:2 4:1 7:1 7:1 60:10 61:9 111:18 n1 60:2 name 4:11 5:23 37:19 89:23 111:7 127:15 names 11:12 51:14 nature 15:7 40:25 49:7 necessarily 21:25 28:20 34:18 40:17 47:20,24 48:10 48:17 50:6 101:5 116:23 127:5 need 12:4,24,24 12:25 17:11 31:17 71:21 76:9 107:22	133:17 networking 23:6 29:6 new 1:1,9 2:8 4:9,23 20:16,20 21:22 31:22 32:1,4,10 33:4 33:11,12,14,16 34:1,11 35:2 36:13,20 40:13 44:9,15 45:21 46:3,10 47:7 48:5 52:16 58:11,19 60:19 65:6 66:11 71:11 72:10,20 73:25 75:3,10 75:12 77:3,12 81:12 83:3,16 85:24 86:4 89:19 90:9 91:13 93:8 94:24 96:7 98:5 100:6 102:9,17 107:4,14 112:12 112:13 117:15 118:6,10,14,20 123:6 129:4,17 129:24 130:14 130:23 nine 39:24 ninety 98:19 nods 12:4 nontestimonial 15:7 16:22
---	--	---	---

[north - okay]

Page 158

north 2:8 100:5 102:8 108:12 nos 66:1 notary 1:24 134:5,15 note 118:16,22 119:15 136:12 noted 42:4 65:7 66:23 69:17 72:8 80:8 81:12 83:4 94:24 95:17 107:20 117:15 123:6 129:3 notes 12:12 46:15 49:9,19 49:21 61:2 132:1 135:8 notice 1:22 3:11 9:14 10:19,24 noticing 4:17 noting 47:21 number 3:10 7:4 20:4 22:11 41:5 42:24 57:12 60:11 68:3,8 69:13 70:2,4,13 71:13 87:14,16,19 89:25 90:2 92:2 97:2 101:22,23 109:6 119:10 122:7 134:16 numbers 70:11 70:16 93:16	95:22 101:21 103:1 numerous 23:12 ny 3:19 o o 4:1 29:25 35:25 45:25 47:25 48:25 58:25 80:25 95:25 97:25 124:25 oath 3:4 5:5 6:13 84:23 134:1 object 16:19,23 22:7 45:3,13 48:7 49:12 77:15 86:19 96:12 115:19 119:19,20 120:21 130:25 objection 14:4 19:18 20:2,9,22 22:19 24:2,17 25:12 27:14,23 28:10 29:4,20 31:13 32:2,11 34:4,16 35:4,12 36:15,21 37:13 38:15,23 39:5 40:2,14 41:14 41:25 42:13,20 43:6,12,24,25 44:10,23 45:13 45:22 46:5,13	47:9,18 48:22 50:3,16 51:9 52:8,23 54:15 54:24 55:9,16 55:24 56:20 57:18 58:14,21 59:5,10,23 60:15,22 62:8 62:20,25 63:19 64:16 66:25,25 67:20 68:12 69:19 70:6 71:19 72:1,5,13 72:23 74:20 75:15 76:6,18 77:19 78:4 79:22 80:13,23 81:6 83:5,5,17 83:21 84:1,2 87:15,24 88:5 89:9 92:8,14,19 93:1,10 94:3,25 95:19 96:9,19 97:3,9,10,23 98:14,20,25 99:2,12,13 100:19 101:14 102:10 103:18 104:20 105:2,16 105:16 106:17 107:7 109:3,25 110:5,11 111:14 111:24 112:23 113:25,25 114:11,11	115:23 116:10 116:21 117:6 119:2,24 120:14 121:6,15 122:25 123:14,23 124:11,18,19 125:8 126:25 129:5,13,19 130:1,16 131:13 131:21 132:18 observation 29:12 obtain 60:21 obtaining 102:19 occur 10:20 odd 9:19 offered 109:19 office 8:13 26:9 44:8 official 134:10 official's 47:8 officials 45:21 46:10,25 48:5 oftentimes 29:11 43:18 oiled 9:21 ointment 3:18 65:7 66:8 67:15 68:20 69:14 71:1 okay 6:9,15,21 6:25 7:10,18 8:2 8:23 9:4,13,22 10:3,6,23 11:1
--	---	--	---

[okay - overcharge]

Page 159

11:15,20,24,25	68:8,25 69:13	132:3,4,8,21,23	120:12 132:15
12:8,9,12,15,18	70:2,17,23	old 3:24 42:25	opportunities
12:22 13:1,2,11	71:13 73:4,8,11	99:24 100:3	24:21 28:17
13:14,20 14:8	73:21 74:7,12	103:16 106:14	29:15 32:22
14:12,15,23,25	76:3,16,21	109:16 110:4	opportunity
15:4,13,20 16:2	78:21 79:12,15	111:8 114:8,17	13:8
17:2,8,22,25	80:2,8,19 81:2	117:1 126:11	opposed 11:23
18:14,17,20,25	82:4,17 83:1,24	127:15	12:6 29:3 82:20
19:5,25 20:19	84:8,11,13 85:2	once 11:9 14:17	order 5:15,17
21:17 22:16,23	85:5,8,11,14,17	47:22	54:3,7,8 56:18
24:25 25:3	86:3,9,14 87:5	open 81:17	56:24 57:4,6,10
26:11 27:18	87:13,19,22	127:23	65:15 67:9
28:4,24 30:2,19	88:2,8,16,20	opening 118:7	78:13 110:22
31:8,11,24 32:8	89:1,7,12,18	operate 31:22	111:5 127:14
33:6,11,22	90:2,5,25 91:8	operates 34:11	133:15
34:13 35:16	91:19,22 92:2,5	operations 22:3	ordering 133:11
36:6,9,18,25	93:5 96:2 97:15	22:24 23:18,25	136:15
37:7,19,22 38:6	98:2,6,15,17,23	opine 13:19	organization
38:13 39:23	99:18 101:11	21:20 25:20	13:18 23:10
41:9 42:24 43:9	102:7 104:18,24	50:21 71:22	38:2
43:17 44:5,14	107:2 108:16	98:21	organizations
45:2,19 46:2,9	109:6,11,12,23	opinion 8:4 11:5	13:17 23:9,9
46:22 47:6,15	110:3,8,19	17:10 40:23	24:18
48:2,20 49:2,23	111:1,17 113:10	41:2 42:5 46:4	original 54:2,6
51:16 53:2,5,17	113:18 114:15	46:12 50:15	54:8 56:17,24
53:21,24 54:11	115:4 117:4,9	51:11 52:18	57:9 65:15 67:9
54:20 56:4,13	118:16,22,25	55:19 58:9,17	111:5 127:14
56:14,17 57:5	119:6 120:5,18	58:24 61:1	output 34:21
57:23 58:9	121:25 122:6,9	98:23 99:16	outside 32:25
59:15 61:12,18	122:21 124:16	105:11 109:15	33:3 43:14
61:23 62:17	126:20 127:22	115:15 116:2	85:13 92:24
64:3,13,24	127:25 128:3,6	opinions 6:4	129:17,24 130:4
65:21 66:4,19	128:7,13,22,25	21:4,24 22:13	132:17,20
66:23 67:7,11	129:3 130:22	40:21 52:2,13	overcharge 47:7
67:14,17,25	131:8,24 132:2	52:21 62:15	48:6 59:3 73:24

[overcharge - plaintiffs]

Page 160

77:1 80:22 95:18 96:8 100:4 124:14 overcharges 45:20 46:3,24 57:25 129:18,25 overpriced 72:10 oversight 110:1 own 11:22 24:18,25 30:25 owns 31:1 oxley 37:25	85:19 89:22 90:17 91:23 99:7,21 107:17 109:9,13 117:9 118:19 119:10 119:10 126:10 137:4,7,10,13 137:16 pages 135:7 paid 116:9 papers 104:7 105:9 paragraph 21:13 51:19 parallel 29:9 parentheses 65:15,16 part 13:1,16,16 23:21 24:19 76:8 93:13 119:4 123:16 particular 13:20 22:1 46:16 50:9 77:7 101:12 104:14 107:1,2,8 113:4 particularly 94:7 parties 52:1 135:10,11 136:15 paso 3:24 42:25 99:24 100:3 103:16 106:15 109:16 110:4	111:8 114:8,17 117:1 126:11 127:15 pass 46:20 past 6:2 15:16 15:22 pattern 47:23 pawn 31:9,16 paying 29:3 100:16,18,22 101:5 112:22 pc 2:7 pdf 20:24 124:2 124:2 peer 23:5,21 24:5 pen 82:13,16 penalties 137:20 penalty 29:13 84:24 people 25:21 100:15,22 percent 11:14 46:11,11 113:18 113:21 114:7,10 114:16,20 115:1 percentage 46:2 perfect 19:9 perform 55:7 102:21 performed 60:20 124:6 perimeter 53:14 period 20:17 44:21 45:10,20	58:10,18 periodically 18:3 peripherally 28:6 perjury 84:24 137:20 personal 102:24 personally 30:8 30:8 134:21 pertain 40:5 pertaining 85:9 pertains 37:24 60:8 105:5 106:25 phillips 2:3 phrased 7:7 physically 27:1 picked 96:25 picture 86:16 87:10 pinpoint 77:6 place 8:11,17 23:6 29:7 108:11 117:11 118:20,23 123:20 128:10 places 48:14 plaintiff 4:6 plaintiff's 1:22 plaintiffs 1:6,19 2:2 3:11 4:19,21 21:23 22:12 38:14,21 115:21 119:21 120:25
p			
p 2:1,1 4:1 p.m. 1:21,21 4:3 10:8,9,9,11,21 35:21,21,24 84:16,17,17,20 108:4,5,5,7 126:2,3,3,6 132:9,10,10,12 133:5,20 page 3:2,10 17:13 26:1 39:12,23 41:4,4 41:23 42:11 43:1,11 47:17 48:2 49:25 50:14,24 51:16 51:18 54:11 64:24 66:4,21 73:13,17 74:12 74:23 75:1 76:22 78:2 80:4			

[plaza - procedures]

Page 161

plaza 2:14 136:2	49:25	price 22:3,25	27:22 28:1 29:2
please 4:25 6:25	pol 61:9	23:12 25:5	32:1,9 33:13
11:11 35:18	populate 56:11	26:10 27:2 28:6	34:2 35:3 36:20
38:17 64:23,25	portal 91:6	28:15 33:5,7	44:16 45:11
65:3 66:2 67:10	pos 27:2 60:3,12	34:9 55:14	48:11 51:14
70:21 78:13	60:21 61:9	60:21 65:8,8,11	55:22 61:3,8
86:10,12,15	103:4 106:3	65:12,24 74:1,4	66:11 79:8,15
90:3 92:2 99:18	111:21 112:6	75:22 80:6,9,15	79:19 94:22
109:10 136:13	position 94:15	80:16 81:3	96:5 97:20 98:3
pllc 2:3	possible 59:2,9	89:15,17 100:7	98:10 99:8
plus 23:4 24:11	71:16,25 76:16	100:9,16 101:8	104:19 110:3
35:10 66:20	93:5 96:24 97:8	105:12,24	119:14 120:15
pmh 1:3 4:10	110:8,18	108:17,22 109:8	121:3,14 129:18
point 40:10 43:2	potentially	109:8,19,20	131:11
59:25 60:17	111:13	110:9 111:12,18	primarily 31:3
61:4 62:10 63:1	power 31:4	111:19,22	prior 6:6 8:9
65:2,4 69:10,12	ppp 102:15	112:14,16	15:1 31:24
70:8 73:18	practices 24:10	113:15,23,24	36:18 64:14
76:23 77:17	preceding 65:17	114:9,10,17,18	104:21
78:2 80:3,19,24	predominantly	114:20,25 115:1	privilege 16:21
81:10,21 85:18	103:23	115:6,16 116:16	privileged 16:12
99:19 100:13	preliminary	117:16,17,18	49:13,17 131:1
101:3,12 102:7	11:15	118:5,7 119:16	privy 19:12
102:13 105:7	prepare 8:2,6	119:17 123:8,8	probably 15:18
106:14 107:21	9:4 64:6	124:9 126:17	130:19
111:19,21 112:9	preparing 64:4	128:17 129:3	problem 24:16
117:10 121:23	85:16 125:14	priced 58:12,20	26:7 108:16
126:10 129:10	present 2:19	59:4	126:15
133:16	pretty 22:6 50:9	prices 60:11,14	problems 42:9
pointed 93:15	prevalent	63:5,18 104:25	procedural
108:16 115:13	105:21	120:11	102:2
126:16	prevention	pricing 22:3,25	procedure
points 39:24	25:17 30:21	23:18,25,25	40:11 136:23,24
41:5,10,23	previously	24:16,19 25:11	procedures
42:10 47:17	23:11 103:23	26:7,12 27:8,13	24:15 39:25

[procedures - read]

Page 162

61:2 63:9 72:16 83:9 102:16 116:3 process 112:2 127:6 produced 52:1 52:14 134:22,23 product 26:25 27:1,3 31:19 48:6 51:13 58:11,18 59:2 66:24 67:4,18 68:1,10 70:2,25 71:7,13 72:8,10 72:11,12,20 76:1,4 77:12 78:21 80:21 81:4 83:2,14,15 83:25 85:24,25 86:4,18 87:1,11 87:14 88:4,14 89:7,8,15,24 90:6,10,11,21 91:14,16,20,25 92:24 93:6,7,8 94:21 95:16,17 96:7,7,24 97:1 98:3,10 100:16 103:16 105:12 106:16 108:25 111:7 112:21,22 113:22 114:19 114:25 115:7,16 116:20 119:17 121:13 123:20	125:6 126:17,23 127:15 128:10 128:14 products 45:19 46:21 50:2 54:6 57:5,7,24 60:11 62:19 88:3 90:8 90:18 104:25 110:16 111:12 promotion 113:21 114:7,16 proper 105:9 proposed 4:19 4:21 protected 49:17 protection 24:6 25:16 30:21 protective 5:15 5:17 proven 106:2 provide 18:4 25:20 28:13 38:3,8,10 44:8 51:7 72:9 97:7 109:15 117:23 provided 19:16 20:15 44:12,17 44:21 83:14 94:22 96:6 121:3,13,22 124:16 provides 79:3 pubic 1:24 public 23:11 25:4 134:6,15	pull 122:21 pulled 65:10 74:2 76:4 80:5 100:8 108:21 116:15 117:18 123:1 purchase 31:19 purchases 112:20 purpose 82:17 purposes 17:6 105:4 pursuant 1:22 5:17 10:23 131:2 put 5:9,13 14:9 16:9 18:15 19:5 20:4 50:5 56:8 91:6 115:22 119:21 128:1 putting 47:23 q queensbury 117:14 118:6,10 118:13 123:6 question 6:5 7:7 7:8,13,23 12:6 20:14 38:6 39:2 41:9,17 42:8 44:1,14 46:19 48:16 49:14,18 50:19 56:14,21 58:15 59:9 64:8 71:25 77:18 79:10 96:4	98:17 112:25 115:5 120:7 127:21 131:3,9 questioned 5:5 6:13 questioning 36:10 126:9 questions 7:5,6 16:5 132:22,24 quick 125:21 quicker 11:24 56:11 quite 20:23 23:6 49:7 67:22 105:21,22 quote 28:21 73:22 100:2 104:4 r r 2:1,13 4:1 7:1 136:1 raise 5:1 raising 127:9 rate 17:8,9,14 46:11,12,20 rather 30:15 rationale 49:5,8 50:8 reached 13:18 14:9 43:19 reaches 18:3 react 28:22 30:13 read 3:6 8:24 13:3 22:6,14,17
--	--	---	--

[read - register]

Page 163

52:4 65:2 73:21 90:2 92:2 100:2 100:11 106:19 106:23 117:21 118:19 133:7,9 136:11 137:20 readiness 32:19 reading 61:2 104:21 106:7 110:17 123:4 133:21 reads 60:7 75:4 111:20 112:25 122:17 ready 11:10 really 18:18 20:4 23:7 47:14 47:14 50:10,21 56:16 64:5 71:22 76:19 77:6 95:10 102:12 103:5,5 107:3 127:9 130:9,10 131:16 reason 29:18 46:4 47:15 51:3 87:22 91:1 98:17 99:7 136:12 137:6,9 137:12,15,18 reasonable 22:4 22:25 110:17 136:17 reasonably 21:24 22:12	reasons 49:23 50:13 95:5 103:4 recall 11:8,12 11:13 13:10,11 13:13 18:3,8,18 19:22 20:4 33:18 34:6,6,25 35:6,10 39:21 39:22 47:20,24 49:5 50:8,10 51:13 55:1 56:16 57:20 58:2,8 61:11,22 62:2,21 63:1,22 64:1,5,8 69:9,9 72:16 73:2 74:23 77:4,8,23 78:5,7 79:23 83:9,18 95:2 97:24 107:12 112:5 115:9 121:18,20,23 receipt 102:14 102:19 103:6 105:8,25 106:11 136:16 receipts 106:3 receives 29:1 recent 12:19,20 19:10 recently 64:1 recess 10:9 35:21 84:17 108:5 126:3	132:10 recollect 49:8 60:25 64:17 recollection 18:5,24 34:1 121:16 126:15 recommendati... 24:22 25:6 28:14 32:16 33:9 34:14,23 reconcile 70:8 93:20 reconciliation 106:5,9 record 4:3,16 5:9,13 7:19 10:2 10:7,10,15 12:8 16:9 35:17,19 35:23 65:2 84:12,15,19 90:3 92:3 108:2 108:3,6 115:22 120:2,3 126:2,5 132:6,9,11 133:2,5 135:8 recorded 4:5 refer 60:5,14 67:4 69:5,5 78:6 reference 12:24 12:25 17:20 40:17 65:14 90:10,21 107:17 108:13 111:5 119:7,10,11	referenced 11:4 11:9 39:15 48:14 103:22 104:2 126:24 136:10 references 120:10 122:14 123:17 127:8,15 referencing 57:7 58:3 77:17 referred 19:21 104:13 referring 17:18 23:16 44:15 66:1 69:21 77:5 93:8 120:16 122:2 refers 59:15 61:16,21 62:1 73:18 104:17 reflected 124:5 refresh 9:18,22 21:10 86:12 126:15 127:24 refuse 131:9 regard 16:2,15 22:16 25:11 50:2 76:21 136:17 regarding 74:18 130:3 register 65:8,11 102:14 103:11 103:11,17 105:24 106:10
--	---	---	---

[register - reports]

Page 164

106:16,24 107:6 111:23 113:23 114:9,19,25 117:17,18 123:8 registered 134:5 135:2 regular 113:23 114:9,25 regulators 29:23 regulatory 29:12 reintroduce 91:4 related 16:18,21 22:24 23:25 31:25 34:2 44:16 48:11 78:2 79:16 85:9 86:4 108:19 126:9,11 relating 22:3 23:18 32:9 33:12 45:10 95:16 relation 29:22 relationship 30:3 62:4 relationships 13:25 relative 135:9 135:11 relevant 21:20 44:21 45:10 52:20	reliability 21:21 50:20,22 105:5 reliable 94:16 98:18 99:10 102:6 105:15,25 reliance 94:17 relied 34:22 35:8 39:10,13 39:19 55:19,21 62:14 67:9 72:21 95:15 99:9 109:14 111:2 115:6 117:5 121:5 125:3 relief 87:7 rely 21:24 22:12 34:13,18 55:13 79:19 94:23 98:4,11 102:1,2 102:21,22 104:24 106:6 relying 81:3 120:12 remember 107:18 121:7,18 121:22 remind 84:23 reminded 12:1 remote 1:17 8:13 remotely 2:24 134:7 rent 23:22	repeat 38:17 98:7 104:14 129:21 repetitive 40:25 rephrase 6:5 7:9 7:15 15:17 38:7 39:11 46:19 129:23 report 3:12,24 8:4,5,24,25 11:5 11:7,9,16,21,22 12:10,13,15,22 13:5 17:10,17 17:20 21:6,14 21:23 26:17 36:12 37:1 38:4 38:5,10 39:9,12 39:15,15,20 40:4,10,21 41:5 41:11,24 46:23 47:4,8 48:13,21 51:12,16,18,23 52:7,22 55:23 61:2 62:15 63:15 64:4,6,10 64:14,24 65:25 65:25 66:17 67:5 68:11 69:15,21 72:9 73:4,14,17,22 74:17,22 75:6,8 75:13,14 76:13 76:23 77:14 78:2 79:20 80:2 80:20 82:8	83:13 85:19 90:10,21,23 92:10 93:9,21 94:2,23 95:10 95:18 98:4,11 99:20,22 100:3 101:19 102:4,21 102:22 103:7,22 107:23 108:13 108:19 109:14 109:15,24 111:3 116:2,13,14,17 116:19 117:5,9 118:5,6,8,17,22 119:3,6,8,15 120:9,11,13 122:22 123:4,22 125:4,14,15 126:10,13 129:4 135:4 reported 1:23 71:17 reporter 4:13 4:25 5:7 7:19 91:2,5 133:7,10 133:13 134:5 135:2 reporter's 3:5 135:1 reporting 26:10 reports 21:22 21:24 22:13 32:14,16 33:9 33:12 34:2,14 34:19 35:1,9
--	---	--	---

[reports - right]

Page 165

37:8 40:1,12 45:16 46:15 50:20 51:1,25 60:24,25 75:18 93:14 94:4,5 104:1,1 105:6 represent 70:23 86:14 89:2 98:2 representative 116:3 represented 101:1 representing 21:19 23:8 38:21 98:9 requested 135:6 requirement 31:18 102:15 requirements 16:7 requires 93:23 reread 8:4,24 22:9 research 93:23 93:25 94:1 reserve 51:20 51:23 52:16,21 reserved 52:12 resources 6:18 30:11 responding 28:8 response 7:14 responses 12:3 12:5	responsibilities 28:12 responsible 25:22 rest 122:12 restaurant 110:4 111:8 117:2 127:16 restrict 48:17 result 105:14 resulting 113:23 114:9,19 115:1 results 94:2 retail 23:5,12 24:20 30:25 31:1,16,20,22 59:13,19 60:3 60:12,21 61:9 61:14,16,19,21 61:23 62:1,4,4,5 62:18,23,24 63:4,5,17,17 105:20 111:18 111:19,21,22 112:6,9,9,16,16 113:3 115:6 128:9 retained 21:19 38:13,18,20 130:22 131:10 retainer 17:2 retaining 102:19 returned 104:6 136:16	review 13:9 20:7 21:20 33:8 34:19 41:18 43:19 44:12,22 47:21 51:24 52:2,10,16,25 55:7 79:25 85:5 129:11 135:6 136:10 reviewed 11:1,3 11:6 13:11 20:11,21 35:2 39:19 44:9,18 45:16 46:11 56:15 107:13 reviewer 102:20 reviewing 19:15 32:14 59:17 60:24 63:8 75:13 93:14 103:25 rexall 3:16,18 65:7 66:7 67:4 67:14,18 68:1 68:20 69:14 70:25 71:4,5 richmond 2:15 136:3 right 5:1,8,19 5:25 6:5 7:13 8:23 9:13,18,25 10:14 13:24 16:13 18:9 22:14 30:9 32:17,21 33:16	34:22 36:2 38:20 39:18 40:20 48:16,20 52:4,12,14,21 53:2,12 59:19 60:9 63:12 67:23 68:15 70:12 75:3,5,6,9 75:14,24 76:5 76:14 79:5 80:6 80:12 81:5,17 82:5,9 83:25 84:22 85:17 87:14 89:2,8,13 89:19,20 90:6 91:20 92:15,22 92:25 95:6,11 96:24 97:2 100:11,18 101:13,21 102:17 103:8 105:20 108:1,10 109:24 111:5,21 111:23 112:5,9 112:10 113:2,11 113:20,24 115:2 116:18 117:1,2 117:5,21 118:1 119:12 122:13 123:10,11,13,19 124:8 126:8 127:10 128:5,13 128:22 131:25 132:14,17,25
---	--	--	--

[ring - see]

Page 166

ring 27:3	s	saying 31:6	105:4,14
ringing 27:3	s 1:23 2:1 3:9	48:17 50:8 69:7	scanning 100:23
rings 111:22	4:1 7:1 134:5,14	80:17 81:8 95:1	107:1,2,13
risk 25:15	135:2,17	95:20 100:21	126:17
rmr 1:23 134:14	sajnani 1:16,22	101:5,8,23,24	scope 28:20
135:17	3:1,12 4:5 5:3	101:25 105:3	scratch 51:16
robust 24:7	5:24,25 10:5,14	111:25 116:13	screen 11:23
rochester 73:25	16:25 36:2	124:21 130:4	54:6 66:3 70:15
75:3,10 77:2,11	76:12 84:22	says 37:8 54:2	70:22 71:2 76:2
89:19 91:13	93:5 105:11	59:16,19 60:7	screenshot
room 9:8 36:3,6	108:10 121:2	69:22 70:25	70:24 86:15
rotations 37:25	126:8 132:14	75:21,25 76:2	89:3 91:11
roughly 8:8	133:6 134:7	80:14 87:3	scroll 37:4 71:2
route 29:22	135:5 136:8	89:18 109:18	78:24 89:21
row 54:8 57:14	137:2,23	113:3,10 117:1	91:22 109:9
79:24 81:9	sale 57:16 61:4	117:1,5 118:13	111:17 113:2
113:4,7,8,13	65:18 71:7	128:14	128:4
115:14,16	101:3 102:13	scan 87:11,13	seal 134:10
128:16	105:7 111:19,21	87:16 103:14,17	sec 67:13 73:16
rows 57:10	112:9	106:16	second 10:2
121:17 128:7,12	sales 57:24 58:6	scanned 74:2	57:2 64:23 66:4
rtaylor 2:15	79:3,11,16	75:22 80:15	68:6 69:23 95:3
136:3	97:20 98:4,10	100:7 101:7,7	108:2 115:18
rule 46:7 136:23	99:8 113:17	107:4 108:18	118:9 127:22
136:24	121:3,14 126:23	109:8,20 112:14	secondhand
rules 26:19	128:9,17,20,21	113:22 114:8,18	31:7,8
131:2 136:17	128:25	126:18 129:3,8	section 39:9,12
run 56:2 86:12	santander 6:22	scanner 100:23	51:19 55:14
93:15	6:24	100:24 101:1	75:14 99:19
rung 102:14	sarasota 134:3	104:5,13,14,18	see 9:19,22,24
running 113:21	sarbanes 37:25	104:25 106:2,6	10:16 21:10,14
114:7,16	sat 59:3	107:5	28:16 37:9,10
	save 82:22	scanners 102:25	40:4,7 41:4,7
	saw 39:25 40:11	103:2,11,12,13	51:21 53:12,13
	47:22 118:15	103:24 104:22	53:24 57:12

[see - sku]

Page 167

59:13 60:3,6,7 60:10 61:13,18 61:24 65:9 66:7 68:21 69:3,22 70:15,20,25 71:5,5,7,9 73:19 74:5,10,14,14 78:15,22 79:15 82:10 86:10,13 86:23 87:2,10 88:25 89:5,16 89:17,17,22,25 91:25 96:14 99:18,25 107:16 108:15 109:21 110:14 111:9,18 112:8,17,18,24 113:16 115:25 115:25 117:3,11 117:17 118:8,17 118:18 119:9 120:15,15 122:13,16,18 123:4 126:18 128:8,10,12,15 128:16,23 seeing 34:1 127:7 seem 61:6 seems 78:18 89:10 92:9,10 seen 19:20 45:9 76:12 92:22 103:6 104:7 106:19 107:9,16	selected 44:22 49:24 50:13 selling 31:3 114:13 sells 83:25 send 25:25 sense 24:12 sent 19:11 26:9 sentence 21:15 51:19 52:6 services 17:23 set 33:15 41:10 41:22 42:10,25 43:10 49:10 55:23 56:18 62:6,15 64:20 101:19 109:15 120:3,12 123:21 sets 42:3 96:21 several 11:3,9 13:16 27:9 51:2 severally 1:10 share 10:15 56:3 82:15 shared 81:13,16 129:16 131:16 shave 122:14 124:13 shaving 117:15 119:8,12,16 120:10 122:24 123:7,20 sheet 3:7 136:12 136:14	shelf 27:1,2 58:11,12,19,20 59:4,13,19 65:8 74:1 75:21 80:8 80:15 100:6,16 101:6,24 102:13 105:1,13 108:17 109:8 111:18 112:9,14 114:17 117:16 119:16 123:7 126:16 shoot 107:25 shops 31:9 show 106:3 showed 74:3 80:5,16 100:9 108:22 116:15 showing 77:10 81:3 shown 90:18 94:1 97:1 shows 100:24 101:8 106:3 113:6 sic 7:9 21:23 28:7 84:15 side 38:11 39:3 53:24 57:2,2 88:20 sign 3:6 17:2 136:13 signature 134:14 135:17 signed 15:12 64:12 136:19	significantly 93:18 signing 133:21 similar 8:13 49:7 89:7,10 117:4 similarly 1:5 simpler 114:24 simply 130:12 sir 5:23 87:21 sit 93:19 sitting 18:9 34:25 35:11 44:20 46:9 50:12 51:6 54:16 58:5,24 72:17 73:1 77:25 78:7 95:14 96:4 97:24 112:5,24 115:5,15 116:23 125:10 situated 1:5 situations 24:15 29:1 30:6 93:16 six 6:1,3 37:7,12 40:4,10,16 41:1 size 71:6 skintimate 3:25 117:15 119:8,11 119:16 120:10 122:14,24 123:7 123:20 124:13 sku 66:23 67:18 68:1,5,6,8 69:17
--	--	---	--

[sku - states]

Page 168

69:25 71:13 72:8,12 78:24 skus 97:5 slow 19:4 smaller 56:10 smoothies 3:23 91:19 smoothy 93:7 97:1 solutions 4:12 4:14 136:22 somebody 102:20 soon 81:23 sorry 8:22 11:10 14:21 31:6 36:7 68:4 81:19 84:6 88:12 104:10 116:7 119:23 sort 30:14 54:2 54:7,8 56:17,24 57:3,6,9 63:3 65:15 67:9 68:16 78:13 95:5 110:22 111:5 122:7 127:14,18 sorted 54:6 sorts 48:11 sound 24:7 sounded 119:24 sounds 16:4 33:6 50:12 54:11 58:1 67:23	south 2:4 71:10 southern 1:1 4:9 space 8:17 spanish 6:24 speak 81:8 speaking 60:8 specialities 14:2 specific 18:7 19:6 26:11 33:23 34:1 43:2 44:14 46:16 47:15 49:14,18 51:3,13 74:22 77:5 78:6 79:24 81:9 83:9,18,24 93:2 121:7,17 122:4 125:2 127:6 128:10 129:7 specifically 19:22 26:9 27:20 31:25 33:14 37:17 38:2 44:15 52:12 55:22 89:4 102:4 106:1,25 111:5 119:6 123:2 specifics 77:23 78:5,7 121:22 specifying 130:4 spell 6:25 spending 59:17 112:1	spent 19:6,15 spinning 78:19 spoke 107:13 spoken 55:3 spot 26:20 73:6 125:11 spreadsheet 3:13,14 19:16 19:20,21 43:3 53:5,19 54:22 55:5,8,13,22 56:8,10,18,25 57:24 58:7 59:22,25 60:2,8 61:12 62:7,14 62:14,19 63:6 63:18,25 67:8 71:18 72:22 78:11 79:4,17 79:25 94:22 97:21 98:11 99:9 110:21,24 111:4 115:10,20 117:1,3 120:19 120:23 121:4,10 121:14,20 122:1 122:22 123:9,13 123:22 124:17 126:22 127:23 129:12 stand 133:3 standalone 20:25 standpoint 24:22 32:15,19	102:1,2 start 41:5 51:17 122:7 started 5:10 47:23 58:10 64:14 starting 39:23 41:4,23 42:11 43:11 47:17 49:25 50:14 58:18 89:22 starts 21:15 51:20 65:3 68:21 state 1:25 4:15 5:22 17:13,15 39:14 40:24 48:13 50:13 75:23 80:4 95:3 95:14 102:17 108:23 117:13 118:24 134:2,6 134:15 stated 17:10 29:5 38:5 40:24 60:25 95:9 111:12 122:22 137:20 statement 23:7 23:8 76:24 statements 119:7 states 1:1 4:8 22:11 60:3 61:18,23 78:25
---	--	---	---

[states - taylor]

Page 169

87:6 99:20 104:3 111:7 113:14 116:14 116:17 stating 105:19 116:6 statute 136:17 stenographic 135:8 stenographica... 135:4 step 93:25 124:24 steps 72:16 83:18 93:23 94:6 stick 113:16 sticker 9:19 86:21 91:1,6 stock 71:10 89:18 stopping 73:6 81:20 store 25:8 26:11 26:15,18 31:20 58:11,19 61:13 61:16 62:4,17 62:23 63:4,17 65:6,7 71:4 73:25 74:3 75:2 75:9 77:2,11 80:5 83:25 89:4 91:12 100:5,9 102:9 104:5 105:13 114:8	116:8,15 117:14 117:16 123:6,7 stores 20:16 21:22 30:25 31:2,22 36:14 40:12 103:1 131:11 straight 120:3 strategic 29:23 street 2:4,14 71:11 118:13 136:2 stuck 127:23 style 110:4 111:8 117:2 127:16 submission 64:15 submit 17:5 submitted 18:25 subsequent 52:9 sufficient 45:16 suggest 106:10 suggested 136:16 suitable 13:19 suite 2:4,8 summary 118:5 118:7 sunil 1:16,22 3:1 4:5,25 5:3 5:24 133:6 134:7 135:5 136:8 137:2,23	superior 26:17 supplement 52:2 supplemental 8:5,25 supports 50:23 suppose 114:13 sure 9:15 12:4 17:11 18:6 20:14 26:5 37:5 41:17 54:5 56:3 59:17 73:8 81:8 90:17 98:8 99:7 104:10 114:6 116:6 125:22,24 surface 26:25 27:6 28:1,15 32:21 surfaces 52:17 sworn 5:5 134:8 system 27:2 103:2 105:7 t t 3:9 7:1 t1 61:13 tab 53:22 65:15 tablets 87:7 tabs 19:21 66:20 121:17 tag 56:9 101:24 tagless 54:9 take 26:25 27:1 29:21 30:16 31:15 53:3,15 68:16 73:7,9,9	78:14 81:24 84:9 103:10 105:24 123:12 125:20 taken 1:17,19 4:6 13:7 86:15 89:3 102:12,13 136:8 137:2 takes 23:6 29:7 talbott 14:20,22 talbott's 14:23 talk 24:9 talked 14:12,15 talking 7:20 19:17 45:11 46:20 85:18 106:14 121:11 target 23:13,20 32:5,5,9 33:4,8 34:10 35:9 task 19:6 tasked 50:21 taylor 2:13 4:22 4:22 5:11 8:8,10 9:1,7 10:3,6 14:4,14 15:3,5 15:16,21,25 16:9,16,19 19:18 20:2,9,22 22:7,19 24:2,17 25:12 27:14,23 28:10 29:4,20 31:13 32:2,11 34:4,16 35:4,12 36:7,15,21
---	--	--	--

[taylor - think]

Page 170

37:13 38:15,23 39:5 40:2,14 41:14,25 42:13 42:20 43:6,12 43:24 44:5,8,10 44:11,23 45:3 45:13,22 46:5 46:13 47:9,18 48:7,22 49:12 50:3,16 51:9 52:8,23 54:15 54:24 55:9,16 55:24 56:20 57:18 58:14,21 59:5,10,23 60:15,22 62:8 62:20,25 63:19 64:16 66:25 67:20 68:12,22 68:25 69:19 70:6 71:19 72:1 72:5,13,23 73:5 73:11 74:20 75:15 76:6,18 77:15 78:4 79:10,13,22 80:13,23 81:6 81:20 82:1,17 83:5,17,21 84:1 84:11 85:9,15 85:16 86:19 87:15,24 88:5 88:11 89:9 92:8 92:14,19 93:1 93:10 94:3,25	95:19 96:9,12 96:19 97:3,9,23 98:14,20,25 99:12 100:19 101:14 102:10 103:18 104:20 105:2,16 106:17 107:7 109:3,25 110:5,11 111:14 111:24 112:23 113:25 114:11 115:18 116:10 116:21 117:6 119:2,19 120:1 120:14,21 121:6 121:15 122:25 123:14,23 124:11,18 125:8 126:25 129:5,13 129:19 130:1,16 130:25 131:6,13 131:21 132:3,18 132:23 133:7,9 133:13,15 136:1 taylor's 14:17 36:6 44:11,17 120:18 teams 102:25 technical 69:11 technically 60:8 technological 103:3 telephone 9:11 tell 11:21 16:17 18:10 21:1	37:22 59:7,7 62:3,11 68:14 68:17,22 69:10 70:7 71:21 75:19 76:19,19 77:25 88:25 97:4,5 100:14 112:1 123:15,17 124:15 telling 16:4 33:6 43:21 temperature 25:22 ten 18:10 19:25 33:22 35:10 41:10 46:23 47:16,16 48:20 48:24 49:3,10 49:24 50:14 51:4,6 64:19 65:13 83:12 tennessee 2:4 terminal 61:4 terms 28:21,22 29:6 test 12:25 115:12 125:14 tested 46:21 testified 5:5 101:2 testifying 84:24 119:25 testimonial 15:2 testimonies 106:8,20	testimony 5:14 6:12 12:19,20 37:8 38:3,8 39:3 48:3 67:1,17 97:17 103:21 104:21 105:1 106:22,23 107:12 114:1,12 116:12 123:24 133:6 136:11,16 texas 1:9 8:16 8:19 thank 5:7 30:19 66:22 132:24 133:1,19 theme 30:16 thing 7:18 77:21 80:17 things 6:20 7:3 11:24 12:1,6 13:25 24:9 33:8 42:4,4 47:22 94:12,14 think 10:1,15,16 13:13 18:17 19:25 21:10 22:7 24:4 27:9 30:13 33:16 44:7 48:2,15 52:15 67:23 76:16 77:18 78:16,19 80:14 91:3 93:13,14 94:9 95:1,8,20 96:2 97:17,18
--	--	--	--

[think - tums]

Page 171

99:15 100:14 101:11 107:17 114:22 116:1,13 119:3,4 120:1,7 122:3,11 125:9 127:8 130:3,7 131:2,15,16 thinking 82:19 third 26:23 28:13,19 thorough 55:7 129:10 thousand 18:11 18:12 33:19 three 8:8 9:1 40:5 117:10 throws 94:15 time 1:21 5:18 10:21 15:2 17:5 18:4,25 19:1,2,7 19:15,23 23:13 25:6,19,19 30:11 49:5 57:20 58:4,6 59:17 62:11 63:10 64:3 65:11 68:16 76:10 77:4,22 79:24 82:22 83:10 94:4 98:7 112:1 115:9 117:19 121:8 122:12 125:13 129:21 133:11	times 6:1,3,6 14:18 15:19 93:15 106:5 title 89:12 118:18 today 5:14 6:6 7:5,25 8:3,12 9:5 10:20,23 11:16 15:21 16:4 18:9 33:25 34:25 35:11 44:20 46:9 48:3 50:12 51:6 56:15 58:5 63:25 77:25 84:25 95:14 96:4 112:5 115:5,15 129:25 130:15,24 131:12 today's 133:6 together 7:25 47:23 told 8:23 tonawanda 100:6 102:9 108:12 took 72:17 74:16 108:11 117:10 118:20 118:23 123:20 128:9 tools 31:4 top 51:12 53:25 66:21 73:18	76:22 80:4 86:17 87:5 89:5 107:15 118:11 tortilla 3:24 42:25 100:3 103:16 106:15 109:16 110:16 113:22 114:8 126:17 128:13 tortillas 99:24 108:14 109:19 110:4 111:8 114:17 116:8 117:2 126:11 127:16 total 18:5,14 19:23 47:6,8 113:10,14,17 128:9,9,14,20 128:21,23,25 touch 14:9 tough 86:23 97:5 towards 17:13 107:17 trading 37:20 transaction 54:22 65:19 107:1,3,8 128:8 transcript 13:3 13:9 133:15 135:6,7 136:10 136:18 transcripts 11:2 11:4,6 13:12	51:25 136:14 trent 2:13 4:22 5:9 10:1 82:15 84:10 119:25 136:1 tried 15:19 107:25 true 29:17 135:7 137:21 truth 107:3 try 7:5,20,24 9:19,20,21 12:7 19:8 34:19 36:11 90:25 91:3 96:2 97:19 99:6 114:24 trying 11:12 12:24 18:6 70:8 70:14 82:21 86:20 115:11 120:2,7 tums 3:19,21,22 3:23 73:19,22 74:14,18 76:1,4 76:21,25 77:12 78:3,21,25 79:4 79:16 80:20 81:4,12,22 82:2 82:4,4 83:2 85:20,24 86:4 86:17 87:1,2,3,6 88:14 89:12,24 90:6,9,18,20 91:14,16 93:7 93:22,22 94:21
--	--	--	--

[tums - violation]

Page 172

95:16 96:6 97:1 turn 64:24 66:4 99:18 117:9 twice 6:7 twitter 26:1 two 15:15 33:18 37:17 70:8 89:18 90:18 91:4 109:20,21 110:3,6,8,9,9,9 110:14,15,20 111:8,12 113:16 113:21 115:8,17 116:7,19 117:2 117:7 127:17 128:23 type 6:18,19 30:16 32:22 48:18 51:13 104:14 107:13 130:8 types 48:14 103:13 typically 25:21 typo 119:4	69:13 70:24 74:13 84:23 99:19 111:7 118:18 136:17 137:20 undercharged 109:1 underlying 94:9 95:5,8,21 127:8 understand 7:8 10:16 34:20 41:17 57:16 84:25 94:11 110:12 understanding 14:6 16:6 44:3 54:13 56:3 63:13 83:22 84:7 104:21 106:8 121:2 understood 7:15 33:17 49:19 127:12 130:10 undertook 127:6 unfortunately 17:1 unique 83:25 unit 4:4 35:20 35:23 71:5 84:15,19 113:3 115:6 125:20 126:2,5 128:8 128:23 133:4	united 1:1 4:8 units 113:10,14 113:16 128:9,14 universal 83:20 unnecessarily 107:23 unquote 28:21 upc 69:25 82:8 82:10,19,24 83:3,20 85:23 86:3 87:13,23 88:4,9,11 90:9 90:10,17,20,23 91:23 92:7 94:24 97:2 upcs 95:4 updates 103:2 upload 91:6 url 87:5 91:24 use 25:7 66:20 86:16 107:14 used 54:20 105:4 136:19 uses 104:19 using 100:23 101:11 102:25 102:25 103:14 103:24	48:16 63:8 94:6 103:3,21,25 105:4 vary 46:17 verbal 12:2,5 verification 65:25 118:5,7 verified 61:3 verify 94:2 120:8 136:11 veritext 4:12,14 136:14,22 veritext.com 136:14 versus 107:5 vicinity 88:6 video 4:5 133:16 133:18 videoconferen... 1:17 videographer 2:20 4:2,12 10:7 10:10 35:19,22 84:14,18 108:3 108:6 125:16,18 125:19,23 126:1 126:4 132:5,8 132:11 133:3,19 videotaped 1:16 3:1 view 66:2 violation 57:15 119:22 122:16 122:17,19
u			
u 65:16 u.s 2:8 uh 12:7,7,7 unable 77:25 uncommon 26:8 under 6:13 32:6 51:19 54:8 60:12 61:13,23 66:7 67:14			
		v	
		v 1:7 4:7 136:7 137:1 variables 114:23 variety 23:22 26:2,19 33:15	

[virginia - yeah]

Page 173

virginia 2:15 136:3 volume 39:21 42:3	26:15 27:2,12 27:20 29:19 32:18 35:10 37:16 50:5 91:1 97:7 98:23 99:6 103:8 105:7,9 105:23 115:5 121:25 125:11 128:4	88:16 120:4 132:4 133:1 134:1,7,10 135:5 136:11,12 136:13,18	130:12 wrap 132:1 write 21:17 25:25 82:24 88:9
w		witnesses 13:25 14:1	writings 49:9 written 90:23 116:2 125:15
w 112:15 w1 61:18 wait 115:18 waive 133:8 waived 133:21 walk 31:18 54:18 63:13 64:19 94:7 walked 95:10 walmart 3:21 86:15 88:15 89:8 90:6 92:23 walmart.com 87:6 want 5:8 19:2 36:9 41:17 49:15 54:5 63:9 68:3 82:15 84:23 90:16 98:7 115:22 126:8,13 127:18 132:5 wanted 5:13 97:16 104:10 wants 102:20 waterhouse 23:12 25:5 28:7 33:5,7 34:10 way 9:21 25:17 25:18 26:11,14	ways 25:15 32:13,24 we've 10:17 53:18 56:18 61:12 62:7 65:25 90:19 92:22 93:6 111:4 120:20 121:10 125:19 website 3:18,23 70:24 86:15 89:4,23 90:24 91:12,24 week 13:8,12 weir 8:5,25 21:23 22:12 went 10:14 94:6 98:18 99:10 106:24 116:4 wework 8:13 wheel's 78:19 whew 54:12 wilner 13:4,5 witness 3:4 5:4 5:6 45:7 69:1 74:10 82:2	wolf 1:4,4 3:13 3:14,16,19 4:7 53:4 56:13 65:9 71:18 117:17 121:12 122:2 136:7 137:1 wondering 13:8 59:21 woods 2:13 14:10,13,16 15:1 17:23 19:11 136:1 words 54:7 work 7:25 9:16 16:22 17:5 18:14 24:21 26:16 28:20 33:3 34:10 35:9 41:11 52:13 104:7 105:9 worked 14:25 15:15,21,24 16:3,16 37:11 41:21 working 15:3,4 17:20 19:7 28:4 28:25 33:2 64:14 88:2	25:25 82:24 88:9 writings 49:9 written 90:23 116:2 125:15 wrong 100:14 100:15 102:8 118:25 wrote 51:23 67:18 82:20 85:23 86:1
			x
			x 3:2,9 112:16 x1 61:23
			y
			yeah 6:18 11:13 15:14 18:21 23:19 24:11 25:14 27:19 28:12 29:5 30:4 32:13 40:16 42:8,22 44:3 45:16 47:10 49:4,19 54:16 55:18 58:23 63:21 68:14 70:13,13,15 71:6 76:8 77:4 77:21 80:24 83:8 84:4 86:1 86:24 88:6 95:1

[yeah - zoom]

Page 174

96:15 97:12	91:13 93:8
98:9 100:21	94:24 96:7 98:6
103:20 104:12	100:6 102:9,17
105:19 110:1,24	107:4,14 112:12
114:3,6 116:22	112:13 117:15
118:12 119:4	118:6,10,14,20
122:3 124:21	123:6 129:4,17
125:9 127:2,13	129:24 130:14
127:20 129:7,7	130:23
129:23 130:7,10	
131:15	z
year 16:16	z 113:2,5,6,8,16
years 23:4 24:11	115:16
33:22 35:10	zoom 9:11 66:21
37:9,12,15,17	86:16,16
yep 86:2 118:15	
yesterday 8:9	
9:1	
york 1:1,9 4:9	
4:23 20:16,20	
21:22 31:22	
32:1,4,10 33:4	
33:11,12,14,16	
34:1,11 35:2	
36:13,20 40:13	
44:9,15 45:21	
46:3,10 47:7	
48:5 58:11,19	
60:19 65:6	
66:11 71:11	
72:10,20 73:25	
75:3,10,12 77:3	
77:12 81:12	
83:3,16 85:24	
86:4 89:19 90:9	

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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